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REVISED STATUTES
OF
ONTARIO, 1980

BEING A

REVISION AND CONSOLIDATION OF THE PUBLIC GENERAL
ACTS OF THE LEGISLATURE OF ONTARIO, PUBLISHED
UNDER THE AUTHORITY OF THE STATUTES
REVISION ACT, 1979

VOL. 1

TORONTO
PRINTED AND PUBLISHED BY THE QUEEN'S PRINTER

REVISED STATUTES OF ONTARIO, 1980

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CHAPTER 1

Abandoned Orchards Act

1.—(1) In this Act,

Interpre-
tation

- (a) “abandoned orchard” means an orchard,
- (i) the fruit of which has not been produced for sale for human consumption for two consecutive growing seasons, and
 - (ii) that has been designated by a certificate of the Provincial Entomologist as a neglected orchard;
- (b) “Director” means the Director appointed under this Act;
- (c) “fruit tree disease” means any disease or injury of a fruit tree that is caused by an insect, virus, fungus, bacterium or other organism;
- (d) “fruit trees” means,
- (i) apple trees,
 - (ii) cherry trees,
 - (iii) grape vines,
 - (iv) peach trees,
 - (v) pear trees,
 - (vi) plum trees, and
 - (vii) such other fruit-producing trees, shrubs or vines as are designated in the regulations;
- (e) “inspector” means an inspector appointed under this Act;
- (f) “orchard” means an area of land of at least one-fifth hectare on which there are at least thirteen fruit trees and on which the number of fruit trees bears a proportion to

the area of at least sixty-five fruit trees per hectare;

(g) “owner” means the person shown as the owner of the property on the last revised assessment roll of the municipality in which the property is located;

(h) “Provincial Entomologist” means the Provincial Entomologist for Orchards appointed under this Act;

(i) “regulations” means the regulations made under this Act. R.S.O. 1970, c. 1, s. 1 (1); 1978, c. 87, s. 1 (1).

Application

(2) This Act applies only to orchards any part of which is closer than 275 metres to an orchard that is used for the commercial production of fruit and that does not come within the application of section 4. R.S.O. 1970, c. 1, s. 1 (2); 1978, c. 87, s. 1 (2).

Administration of Act

2. The Lieutenant Governor in Council may appoint a Director to administer this Act, and may appoint a Provincial Entomologist for Orchards and one or more inspectors who shall carry out such duties as are assigned to them by this Act or the regulations or by the Director. R.S.O. 1970, c. 1, s. 2.

Inspection

3.—(1) An inspector or the Provincial Entomologist may, between sunrise and sunset, for the purpose of making an inspection, enter any orchard or any premises in which he has reason to believe there is an orchard.

Idem

(2) No person shall hinder or obstruct an inspector or the Provincial Entomologist in the course of his duties or furnish him with false information or refuse to furnish him with information. R.S.O. 1970, c. 1, s. 3.

Report of inspector

4.—(1) Where an inspector reports in writing to the Director that in his opinion the majority of the fruit trees in an orchard,

(a) are infected with any fruit tree disease;

(b) are affected by such other conditions as are designated in the regulations;

(c) have not been properly pruned, sprayed or treated with chemicals; or

(d) have not otherwise been properly maintained,

so as to seriously affect at that time the ability of the fruit trees to produce fruit commercially, the Director shall cause

a copy of such report to be served on the owner of the orchard and on the Provincial Entomologist together with a notice that unless the owner or a person having an interest in the orchard mails or delivers to the Provincial Entomologist within fifteen days after service of the notice, a notice requesting a hearing, the Provincial Entomologist may issue a certificate designating the orchard as a neglected orchard.

(2) The copy of the report and notice mentioned in sub-^{Service}section (1) shall be served upon the owner by personal service or by mailing them addressed to him at his address shown on the last revised assessment roll, and shall be posted in a conspicuous place in the orchard. 1971, c. 50, s. 1, *part*.

5.—(1) If, within fifteen days after service of the copy ^{Issue of}and notice mentioned in subsection 4 (1), ^{certificate}

(a) the owner or a person having an interest in the orchard does not mail or deliver a request for a hearing to the Provincial Entomologist, the Provincial Entomologist may issue a certificate designating the orchard as a neglected orchard; or

(b) the owner or a person having an interest in the orchard mails or delivers to the Provincial Entomologist, a notice requesting a hearing, the Provincial Entomologist shall hold a hearing and if, after the hearing, he concurs in the report he may issue a certificate designating the orchard as a neglected orchard.

(2) The person requesting the hearing, the inspector making ^{Parties to}the report and such other persons as the Provincial Entomologist may specify, are parties to a hearing ^{hearing}required under subsection (1).

(3) Where the Provincial Entomologist holds a hearing ^{Inspection by}under this section, he may inspect the orchard to which it ^{Provincial}relates, affording to the person requesting the hearing or his representative an opportunity of being present at the time of such inspection, and may take into consideration the result of the inspection in reaching his decision. ^{Entomologist}

(4) A certificate designating an orchard as a neglected ^{Service of}orchard shall be served upon the owner and, where a hearing ^{certificate}was held, upon the person requesting the hearing if he is not the owner, by mailing or delivering a copy thereof to his address last known to the Provincial Entomologist, and a copy of the certificate shall be posted in a conspicuous place in the orchard. 1971, c. 50, s. 1, *part*.

Revocation
of certificate

6. The Provincial Entomologist may at any time revoke a certificate issued under section 5. 1971, c. 50, s. 1, *part.*

Where
service
deemed
made

7. Where service of a report, notice or certificate under section 4 or 5 is made by mail, the service shall be deemed to be made on the third day after the day of mailing unless the person on whom service is being made establishes that he did not, acting in good faith, through absence, accident, illness or other cause beyond his control receive the report, notice or certificate until a later date. 1971, c. 50, s. 1, *part.*

Destruction
of
abandoned
orchards

8. Every person who is the owner of an abandoned orchard shall destroy,

(a) all fruit trees in the orchard; and

(b) such other trees, shrubs or vines, present in the orchard, as are designated in the regulations. R.S.O. 1970, c. 1, s. 7.

Penalty

9.—(1) Every person who contravenes any provision of this Act or the regulations is guilty of an offence and on conviction is liable to a fine of not more than \$100.

Idem

(2) A person who is convicted of a contravention of section 8 is liable on conviction to a further fine of \$25 for each day the contravention continues after conviction. R.S.O. 1970, c. 1, s. 8.

Regulations

10. The Lieutenant Governor in Council may make regulations,

(a) respecting the issuance and revocation of certificates;

(b) prescribing the duties of the Director, the Provincial Entomologist and inspectors;

(c) designating fruit-producing trees, shrubs or vines as fruit trees for the purpose of clause 1 (1) (d);

(d) designating conditions affecting fruit trees for the purposes of section 4;

(e) designating trees, shrubs or vines for the purposes of section 8;

(f) prescribing forms and providing for their use;

(g) respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act. R.S.O. 1970, c. 1, s. 9.

CHAPTER 2

Absconding Debtors Act

1. In this Act, "property" includes credits and effects. Interpretation
R.S.O. 1970, c. 2, s. 1.

2.—(1) Where a person resident in Ontario departs there- Who to be regarded as absconding debtors
from with intent to defraud his creditors or any of them, or to avoid being arrested or served with process, being then possessed of any real or personal property therein not exempt by law from seizure under execution, he shall be deemed an absconding debtor, and such property may be seized and taken by an order of attachment for the satisfying of his debts.

(2) The order shall be made only in a pending action. When order may be made
R.S.O. 1970, c. 2, s. 2.

3.—(1) Upon affidavit made by a plaintiff or his agent Affidavit and order of attachment
that the defendant is indebted to the plaintiff in a sum exceeding \$100, stating the cause of action, and that the deponent has good reason to believe and does believe that such defendant has departed from Ontario and has gone to some place, stating it, to which he is believed to have fled, or that the deponent is unable to obtain any information as to the place to which he has gone, with intent to defraud his creditors or any of them, or to avoid being arrested or served with process, and was, at the time of his so departing, possessed to his own use and benefit of real or personal property in Ontario not exempt by law from seizure under execution, and upon the further affidavit of two other persons that they are well acquainted with the defendant and have good reason to believe and do believe that he has departed from Ontario with intent to defraud his creditors or any of them, or to avoid being arrested or served with process, a judge of the Supreme Court may make an order in the Supreme Court for the attachment of the property of such defendant.

(2) Where the sum claimed is within the jurisdiction of the County court jurisdiction
county court, a judge thereof may in like manner make an order of attachment in that court. R.S.O. 1970, c. 2, s. 3.

4. A copy of the order shall be served upon the defendant. Service of order
R.S.O. 1970, c. 2, s. 4.

Term of
validity

5. The order shall remain in force for six months. R.S.O. 1970, c. 2, s. 5.

Certified
copies of
order

6. The plaintiff may at any time while the order is in force obtain from the proper officer one or more certified copies thereof, which may be delivered to any sheriff other than the sheriff to whom the original order was delivered, and he may thereunder attach the property of the defendant in his bailiwick. R.S.O. 1970, c. 2, s. 6.

Liability of
property to
attachment

7. All the property of an absconding debtor liable to seizure under execution may be attached in the same manner as it might be seized under execution, and the sheriff to whom the order of attachment is directed shall forthwith take into his charge all such property, according to the exigency of the order, and shall be allowed all necessary disbursements for keeping the property, and he shall immediately call to his assistance two substantial freeholders of his county, and with their aid shall make a just and true inventory of all the personal property, evidence of title or debts, books of account, vouchers and papers that he has attached, and shall return such inventory signed by himself and such freeholders, together with the order. R.S.O. 1970, c. 2, s. 7.

Sale of live
stock and
perishable
goods

8.—(1) Where horses, cattle, sheep or pigs, or perishable property, or such as from its nature cannot be safely kept or conveniently taken care of, are taken under an order of attachment, the sheriff who attaches them shall have them appraised, on oath, by two competent persons, and, if the plaintiff desires it and deposits with the sheriff a bond to the defendant executed by two freeholders, approved as sufficient by the sheriff, in double the appraised value of the property, conditioned for the payment of the appraised value to the defendant, his executors or administrators, together with all costs and damages incurred by the seizure and sale thereof, in case judgment is not obtained by the plaintiff against the defendant, then the sheriff shall proceed to sell all or any of such property at public auction to the highest bidder, giving not less than six days notice of the sale, unless any of the property is of such a nature as not to allow of that delay, in which case the sheriff may sell it forthwith, and the sheriff shall hold the proceeds for the same purposes as he would hold property seized under the order of attachment.

Restoration

(2) If the plaintiff, after notice to him or to his solicitor of the seizure of any property mentioned in subsection (1), does not deposit such bond, then, after four days next after the notice, the sheriff is relieved from all liability to the plaintiff in respect of the property so seized, and the sheriff shall forthwith restore it to the person from whose possession it was taken. R.S.O. 1970, c. 2, s. 8.

9.—(1) Where the sheriff finds any property, or the proceeds of any property that has been sold as perishable, belonging to the defendant in the custody of a constable or of a bailiff or clerk of a small claims court under a warrant of attachment issued, or finds money paid into court under a garnishment summons under the *Small Claims Courts Act*, the sheriff shall demand and is entitled to receive the property or money from the constable, bailiff or clerk, who, on demand and notice of the order of attachment, shall forthwith deliver it to the sheriff, under the penalty of forfeiting double the value thereof, to be recovered by the sheriff, with costs of suit, and to be by him accounted for after deducting his own costs, as part of the property of the defendant, but the creditor who has sued out the warrant of attachment or taken the garnishment proceedings in the small claims court may proceed to judgment, and on obtaining judgment, and serving a certificate of the amount thereof, and of the costs, under the hand of the clerk and the seal of the small claims court, is entitled to share in the distribution, if any, by the sheriff under the *Creditors' Relief Act*.

Proceedings if sheriff finds property in the hands of a bailiff or clerk of a small claims court
R.S.O. 1980, c. 476

R.S.O. 1980, c. 103

(2) The costs and disbursements of such constable or bailiff are a first charge upon such property and proceeds and shall be paid by the sheriff upon demand after being taxed by the clerk of the small claims court. R.S.O. 1970, c. 2, s. 9.

Costs of bailiff or constable

10. The costs of the sheriff for seizing and taking charge of property under an order of attachment, including the sums paid to persons for assisting in taking an inventory and for appraising, shall be paid in the first instance by the plaintiff, and when paid shall be taxed to him as disbursements in the action. R.S.O. 1970, c. 2, s. 10.

Sheriff's costs, how paid

11. Where the sheriff has made an inventory and appraisal on the first order of attachment, he shall not be required to make nor shall he be allowed for a new inventory and appraisal upon a subsequent order coming into his hands. R.S.O. 1970, c. 2, s. 11.

Cost of inventory

12.—(1) Where the defendant or any person on his behalf executes and files in the office from which the order of attachment, or the first order if there are more than one, was issued, a bond to the sheriff with at least two sufficient sureties approved by the proper officer in such office or by the local judge or master, binding the obligors jointly and severally in double the appraised value of the property attached, conditioned that the defendant (*naming him*) will whenever required by order of a judge of the court pay into court the appraised value of the property or so much thereof as will be sufficient to satisfy the claims of all creditors who may be entitled to share in the proceeds of the property, or will

Restoration of goods to debtor on his giving security

produce and deliver to the sheriff the property attached, a judge of the court may direct that such property be restored to the debtor.

Proceedings
on default

(2) If within one month after the property has been attached such bond is not executed and filed, a judge of the court may direct the sheriff to sell any of the goods and chattels that have been attached, except chattels real, upon such terms as the judge considers just. R.S.O. 1970, c. 2, s. 12.

Costs of
first
attachment

13. The costs of the first order of attachment and of the execution thereof have priority over all execution debts and other costs. R.S.O. 1970, c. 2, s. 13.

Liability of
persons
paying debts
to abscond-
ing debtor
after notice
of
attachment

14.—(1) Where notice in writing of the order of attachment has been duly served by the sheriff, or by or on behalf of the plaintiff, upon a person owing a debt or demand to, or who has the custody or possession of property of, the defendant, and such person after such notice pays the debt or demand or delivers the property to the defendant or to any one for him, he shall be deemed to have done so fraudulently, and, if the other property seized by the sheriff is insufficient to satisfy the claims of all creditors who are or become entitled to be paid out of the property or the proceeds thereof, such person is liable to the sheriff for the amount of the debt or demand so paid or for the property so delivered or the value thereof.

Duty of
sheriff

(2) The sheriff is not bound to sue until a bond is given by one or more of the plaintiffs or claimants with two sufficient sureties, who may be another of the plaintiffs or claimants, payable to the sheriff by his name of office in double the amount of the debt or of the value of the property sued for, conditioned to indemnify him from all costs, loss and expense that he may incur in the prosecution of the action or to which he may become liable in consequence thereof.

Stay of
proceedings
taken by
absconding
debtor

(3) If, after the notice mentioned in subsection (1), a person indebted to the defendant, or having the custody or possession of any of his property, is sued for the debt, demand or property by the defendant, or by the person to whom he has assigned the debt, demand or property since the date of the order of attachment, he may, on affidavit, apply to a judge of the court to stay proceedings in the action until it is known whether the other property seized by the sheriff is sufficient to satisfy the claims mentioned in subsection (1), and the judge may direct an issue to try any disputed question of fact or make such other order as he considers just. R.S.O. 1970, c. 2, s. 14.

15. If the other property of the defendant proves insufficient to satisfy the executions against him and the claims certified under the *Creditors' Relief Act*, and there remain debts due to the defendant and the attempt to collect such debts would be less beneficial to his creditors than a sale thereof, the sheriff may, by leave of a judge of the court, sell such debts by public auction after such advertisement as the judge directs and, pending such advertisement, the sheriff shall keep a list of the debts to be sold open for inspection at his office, and shall give free access to all documents and vouchers explanatory of such debts; but every debt amounting to more than \$100 shall be sold separately, unless the judge otherwise directs. R.S.O. 1970, c. 2, s. 15.

Sale of debts
by sheriff

R.S.O. 1980,
c. 103

16.—(1) The person who purchases a debt from the sheriff may sue for it in his own name, and a bill of sale in Form 1 executed by the sheriff is admissible in evidence as *prima facie* proof of such purchase and of the sheriff's authority to sell, without proof of the handwriting of the sheriff, or of the execution or order, or of the sale.

Right of
purchaser
to sue

(2) In an action by the purchaser, the defendant may set up any defence that would have availed him against the absconding debtor at the date of the order of attachment. R.S.O. 1970, c. 2, s. 16.

What
defence
may be
set up

17. Where the plaintiff desires to avail himself of the *Creditors' Relief Act*, he may, instead of proceeding with his action, obtain a certificate and, in that case, may add the costs incurred in the action to the amount of his claim, unless a judge of the court otherwise orders. R.S.O. 1970, c. 2, s. 17.

Option

18. Where an order of attachment has been made but no execution at the suit of a creditor against the property of the debtor is placed in the sheriff's hands for execution within three months thereafter or within such further time as a judge of the court directs, all the property of the absconding debtor or unappropriated money, the proceeds of any part of such property remaining in the sheriff's hands, together with all books of account, evidences of title, or of debt, vouchers and papers whatsoever belonging thereto, shall be delivered to the absconding debtor or to his authorized agent, or to the person in whose custody they were found, or, if taken or received under section 9, to the constable, bailiff or clerk from whom they were taken or received, upon being repaid the amount, if any, that the sheriff may have paid under subsection 9 (2), and thereupon the responsibility of the sheriff in respect thereto determines, or, if a bond has been given under section 12, the bond shall be delivered up to be cancelled. R.S.O. 1970, c. 2, s. 18.

Sheriff's
duty and
end of his
responsi-
bility

FORM 1

BILL OF SALE OF A DEBT

(Section 16)

In consideration of \$, the receipt whereof I hereby acknowledge;

I, *A.B.*, Sheriff of the County of, under and by virtue of an order of attachment dated, issued under the *Absconding Debtors Act* against the real and personal property of *C. D.*, an absconding debtor, and under and by virtue of an order in that behalf, hereby sell and assign to *E.F.* all claim by *C. D.* against *G.H.*, of (*describing the debtor*), with the evidences of debt and the securities thereto appertaining.

Witness my hand and seal of office, this day of, 19 . . .

A.B.,
Sheriff of the County of

R.S.O. 1970, c. 2, Form 1.

CHAPTER 3

Absentees Act

1. An absentee within the meaning of this Act means a person who, having had his usual place of residence or domicile in Ontario, has disappeared, whose whereabouts is unknown and as to whom there is no knowledge as to whether he is alive or dead. R.S.O. 1970, c. 3, s. 1. Interpretation

2.—(1) The Supreme Court may by order declare a person to be an absentee if it is shown that due and satisfactory inquiry has been made, or may direct such further inquiry to be made and proceedings to be taken as the court considers expedient before making any order. R.S.O. 1970, c. 3, s. 2 (1). Declaration by court

(2) The application for the order may be made by the Attorney General, or by any one or more of the next of kin of the alleged absentee, by his or her wife or husband, creditor or other person. R.S.O. 1970, c. 3, s. 2 (2); 1972, c. 1, s. 9 (7). Application, who may make

(3) Any person aggrieved or affected by the order has the right to appeal therefrom. R.S.O. 1970, c. 3, s. 2 (3). Appeal

3. Upon application at any time, the court, if satisfied that such person has ceased to be an absentee, may make an order so declaring and superseding, vacating and setting aside the order declaring the person an absentee for all purposes except as to acts or things done in respect of the estate of the absentee while such order was in force. R.S.O. 1970, c. 3, s. 3. Order declaring person no longer absentee

4. The court may make an order for the custody, due care and management of the property of an absentee, and a committee may be appointed for that purpose. R.S.O. 1970, c. 3, s. 4. Administration of estate

5. A trust company with or without one or more persons may be appointed such committee. R.S.O. 1970, c. 3, s. 5. Who may be appointed committee

6. Where a committee of the estate of an absentee has been appointed, the powers and duties of the court and committee are the same with necessary modifications as the powers and duties of a court and of a committee of the estate of a mentally incompetent person under the *Mental Incompetency Act*. R.S.O. 1980, c. 264. Powers and duties of court and committee

R.S.O. 1970, c. 3, s. 6.

Powers of
committee
to expend
money out
of estate

7. The committee, subject to the direction of the court, has authority to expend moneys out of the estate of an absentee for the purpose of endeavouring to trace the absentee and in endeavouring to ascertain whether he is alive or dead. R.S.O. 1970, c. 3, s. 7.

Lands in
Ontario of
foreign
absentee

8. Where a person who has had his usual place of residence or domicile out of Ontario and who has an interest in land in Ontario has been declared to be an absentee by a court of competent jurisdiction, the Supreme Court may by order, upon being satisfied that the person has disappeared, that his whereabouts is unknown and that there is no knowledge as to whether he is alive or dead, appoint a committee with such authority to manage, sell or otherwise deal with his interest in such land as in the opinion of the court is in his best interests and those of his family. R.S.O. 1970, c. 3, s. 8.

CHAPTER 4

Accidental Fires Act

1. No action shall be brought against any person in whose house or building or on whose land any fire accidentally begins, nor shall any recompense be made by him for any damage suffered thereby; but no agreement between a landlord and tenant is defeated or made void by this Act. R.S.O. 1970, c. 4, s. 1.

No action
for damages
from acci-
dental fire

CHAPTER 5

Accumulations Act

1.—(1) No disposition of any real or personal property shall direct the income thereof to be wholly or partially accumulated for any longer than one of the following terms: Maximum accumulation periods

1. The life of the grantor.
2. Twenty-one years from the date of making an *inter vivos* disposition.
3. The duration of the minority or respective minorities of any person or persons living or *en ventre sa mere* at the date of making an *inter vivos* disposition.
4. Twenty-one years from the death of the grantor, settlor or testator.
5. The duration of the minority or respective minorities of any person or persons living or *en ventre sa mere* at the death of the grantor, settlor or testator.
6. The duration of the minority or respective minorities of any person or persons who, under the instrument directing the accumulations, would, for the time being, if of full age, be entitled to the income directed to be accumulated.

(2) The restrictions imposed by subsection (1) apply in relation to a power to accumulate income whether or not there is a duty to exercise that power, and such restrictions also apply whether or not the power to accumulate extends to income produced by the investment of income previously accumulated. Application of subs. (1) restrictions

(3) The restrictions imposed by subsection (1) apply to every disposition of real or personal property, whether made before or after its enactment. Idem

(4) Nothing in subsection (1) affects,

(a) the validity of any act done; or

(b) any right acquired or obligation incurred,

Previous acts, etc., not affected

under this Act before the 6th day of September, 1966.

Accumulations for the purchase of land

(5) No accumulation for the purchase of land shall be directed for any longer period than that mentioned in subsection (1).

Application of invalid accumulations

(6) Where an accumulation is directed contrary to this Act, such direction is null and void, and the rents, issues, profits and produce of the property so directed to be accumulated shall, so long as they are directed to be accumulated contrary to this Act, go to and be received by such person as would have been entitled thereto if such accumulation had not been so directed. R.S.O. 1970, c. 5, s. 1.

Saving as to debts or portions for children

2. Nothing in this Act extends to any provision for payment of debts of a grantor, settlor, devisor or other person, or to any provision for raising portions for a child of a grantor, settlor or devisor, or for a child of a person taking an interest under any such conveyance, settlement or devise, or to any direction touching the produce of timber or wood upon any lands or tenements, but all such provisions and directions may be made and given as if this Act had not been passed. R.S.O. 1970, c. 5, s. 2.

Rules as to accumulations not applicable to employee benefit trusts

3. The rules of law and statutory enactments relating to accumulations do not apply and shall be deemed never to have applied to the trusts of a plan, trust or fund established for the purpose of providing pensions, retirement allowances, annuities, or sickness, death or other benefits to employees or to their widows, dependants or other beneficiaries. R.S.O. 1970, c. 5, s. 3.

CHAPTER 6

Administration of Justice Act

1. In this Act, “administration of justice” means the pro-^{Interpre-}vision, maintenance and operation of, ^{tation}

- (a) the courts of justice of the Province of Ontario, including small claims courts and provincial courts;
- (b) land registry offices;
- (c) jails; and
- (d) the offices of coroners, clerks of the peace and Crown attorneys,

for the performance of their functions, including any functions delegated to such courts, institutions or offices or any official thereof by or under any Act. R.S.O. 1970, c. 6, s. 1.

2.—(1) The Minister of Government Services on behalf of ^{Agreements} Ontario may, at any time, enter into agreements with the council of any municipality for the acquisition or assumption by Ontario of property, accommodation, furnishing or equipment, or of contracts therefor, provided or entered into by the municipality for the administration of justice. R.S.O. 1970, c. 6, s. 2 (1); 1973, c. 2, s. 2.

(2) For the purposes of subsection (1), the Minister of Govern- ^{Idem}ment Services may acquire more property or accommodation than is necessary for the purposes of the administration of justice, and may enter into agreements with the councils of municipalities for the use of any part of such property or accommodation by the municipality or a local board thereof for municipal purposes. R.S.O. 1970, c. 6, s. 2 (2); 1973, c. 2, s. 2.

(3) Where, by an agreement under subsection (1), the council of a municipality retains or acquires property used for the administration of justice, such property shall be deemed to be ^{Property deemed for municipal purposes} required for the purposes of the municipality.

(4) Where, immediately before the 1st day of January, 1968, a municipality provided accommodation, furnishing and equip- ^{Responsi-}ment that it was required to provide for the purposes of the ^{bility} administration of justice, the municipality shall continue to ^{before} provide such accommodation, furnishing and equipment until ^{agreement}

an agreement is entered into in respect thereof under subsection (1). R.S.O. 1970, c. 6, s. 2 (3, 4).

Contracts
of employ-
ment

3. Notwithstanding the provisions of any contract, where a person employed by the municipality in the administration of justice on the 31st day of December, 1967 is offered equivalent employment by Ontario, the municipality may terminate any contract of employment with such person. R.S.O. 1970, c. 6, s. 3.

Portion
remitted to
Ontario

4. Notwithstanding any other Act, every municipality shall pay to the Treasurer of Ontario all fines that are required by any Act to be paid over to the municipality, other than fines imposed for contravention of the by-laws of the municipality or a local board thereof. R.S.O. 1970, c. 6, s. 4.

Retaining
special
services

5.—(1) Where, in the opinion of the Crown attorney, special services are necessary for the detection of crime or the capture of a person who is believed to have committed a crime of a serious character, he may authorize and direct any person to perform such service, and shall certify upon the account to be rendered by the constable or other person what he considers to be a reasonable allowance to be paid to the person employed, and the amount so certified shall be paid to such person out of the moneys appropriated by the Legislature for the administration of justice.

Employ-
ment and
payment
of inter-
preter

(2) The Crown attorney may employ an interpreter in any criminal cause or investigation or at a coroner's inquest, and the interpreter shall be paid such amount as the Crown attorney certifies to be reasonable, and it shall be paid out of the moneys appropriated by the Legislature for the administration of justice. R.S.O. 1970, c. 6, s. 5.

Payment
for special
services

6.—(1) Where services are rendered by a person in connection with a prosecution and the services are rendered by the direction or with the approval of the Deputy Attorney General, the person rendering the services is entitled to be paid such sum as the Deputy Attorney General directs out of the moneys appropriated by the Legislature for the administration of justice. R.S.O. 1970, c. 6, s. 6 (1); 1973, c. 5, s. 1 (1).

Remunera-
tion of
witness
coming to
Ontario

(2) Where the Deputy Attorney General is of the opinion that it is necessary in order to procure the attendance as a witness for the Crown at a criminal trial of a person resident out of Ontario and that such person should be compensated for his loss of time and expenses in attending the trial, the Deputy Attorney General may direct that such sum as he considers reasonable be paid to such person out of the moneys appropriated by the Legislature for the administration of justice. R.S.O. 1970, c. 6, s. 6 (2); 1973, c. 5, s. 1 (2).

(3) Where the Deputy Attorney General is of the opinion that it is advisable to bring a person charged with an offence from a place out of or in Ontario to the place of trial in Ontario, he may direct that such be done and in every such case the expenses incurred in carrying out the direction shall be paid out of the moneys appropriated by the Legislature for the administration of justice. R.S.O. 1970, c. 6, s. 6 (3); 1971, c. 8, s. 1; 1973, c. 5, s. 1 (3).

Payment of
expenses of
bringing
accused
to trial

7. The Lieutenant Governor in Council may make regula- Regulations
tions,

- (a) requiring the payment of fees for any thing required or authorized under any Act to be done by any person in the administration of justice and prescribing the amounts thereof;
- (b) providing for the payment of fees and allowances by Ontario in connection with services under any Act for the administration of justice and prescribing the amounts thereof;
- (c) requiring the payment of fees in respect of proceedings in any court and prescribing the amounts thereof;
- (d) providing for any special provision considered necessary in respect of the terms of employment, remuneration, and benefits of persons employed by municipalities in the administration of justice immediately before the 1st day of January, 1968, and becoming employed by Ontario on that day, or any class thereof. R.S.O. 1970, c. 6, s. 7; 1971, c. 8, s. 2; 1979, c. 49, s. 1.

CHAPTER 7

Age of Majority and Accountability Act

1.—(1) Every person attains the age of majority and ceases to be a minor on attaining the age of eighteen years. Age of majority

(2) Every person who on the 1st day of September, 1971 has attained the age of eighteen years, but has not attained the age of twenty-one years, has attained the age of majority and ceased to be a minor. 1971, c. 98, s. 1. Reduction in age of majority

2. Section 1 applies for the purpose of any rule of law in respect of which the Legislature has jurisdiction. 1971, c. 98, s. 2. Application of s. 1

3.—(1) In the absence of a definition or of an indication of a contrary intention, section 1 applies for the construction of the expression "adult", "full age", "infant", "infancy", "minor", "minority" and similar expressions in, References to "minor" and similar expressions

(a) any Act of the Legislature or any regulation, rule, order or by-law made under an Act of the Legislature enacted or made before, on or after the 1st day of September, 1971; and

(b) any deed, will or other instrument made on or after the 1st day of September, 1971.

(2) The use of any expression set out in subsection (1) or any similar expression shall not, in itself, be taken to indicate a contrary intention for the purposes of this section without some further indication of a contrary intention. 1971, c. 98, s. 3. Idem

4. Where, by any Act of the Legislature, an Act of Parliament or any provision thereof is made to apply in respect of any Act or matter or thing over which the Legislature has jurisdiction, in applying that Act of Parliament, or that provision thereof in respect of that Act, matter or thing, any reference to the age of twenty-one years in the Act of Parliament or that provision thereof shall be read as a reference to the age of eighteen years. 1971, c. 98, s. 5. References in Federal Acts adopted by reference

References
in court
orders

5.—(1) In any order or direction of a court made before the 1st day of September, 1971, in the absence of an indication of a contrary intention, a reference to the age of twenty-one years or to any age between eighteen and twenty-one years or to any of the expressions referred to in subsection 3 (1), and similar expressions shall be read as a reference to the age of eighteen years.

Idem

(2) The use of the words “twenty-one years” in an order or direction referred to in subsection (1) shall not in itself be taken to indicate a contrary intention for the purposes of this section without some further indication of a contrary intention. 1971, c. 98, s. 6.

Computing
age

6.—(1) The time at which a person attains a particular age expressed in years shall be on the commencement of the relevant anniversary of the date of his birth.

Idem

(2) This section applies only where the relevant anniversary falls on a day after the 1st day of September, 1971, and in relation to any enactment, deed, will or other instrument, has effect subject to any provision therein. 1971, c. 98, s. 7.

Existing
wills

7. Notwithstanding any rule of law, a will or codicil executed before the 1st day of September, 1971 shall not be treated for the purposes of this Act as made on or after that day by reason only that the will or codicil is confirmed by a codicil executed on or after that day. 1971, c. 98, s. 8.

Enactments
incorporated
in existing
deeds, etc.

8. This Act does not affect the construction of a provision of an Act of the Legislature or a regulation, rule, order or by-law made thereunder that is incorporated in and has effect as part of a deed, will or other instrument if the construction of the deed, will or other instrument is not affected by section 3. 1971, c. 98, s. 9.

Accumula-
tions

9. This Act does not invalidate any direction for accumulation expressed in a settlement or other disposition made by deed, will or other instrument and executed before the 1st day of September, 1971 that, but for this Act, was a permissible period of accumulation. 1971, c. 98, s. 10.

Perpetuities

10. This Act does not apply so as to affect the law relating to perpetuities. 1971, c. 98, s. 11.

Actions and
defences

11. This Act does not prejudice a right of action or a defence to an action based upon the age of a party and that was in existence on the 1st day of September, 1971 and, not-

withstanding this Act, the law that was in force immediately prior to that day applies in that case. 1971, c. 98, s. 12.

12. Where, on the 1st day of September, 1971, a person has, Limitation
of actions

- (a) attained the age of eighteen years but has not attained the age of twenty-one years; and
- (b) a right of action in respect of which the period of limitation applicable to the bringing of the action would have commenced to run on his attaining the age of twenty-one years had this Act not been enacted,

the period of limitation in respect of that right of action commences to run on the 1st day of September, 1971. 1971, c. 98, s. 13.

13. A person who has not attained the age of eighteen Persons
under 18
described
as minors years may be described as a minor instead of as an infant. 1971, c. 98, s. 15.

CHAPTER 8

Agricultural Associations Act

1. In this Act,

Interpre-
tation

- (a) “association” means an organization mentioned in section 2 or designated under section 2 or to which the Act applies under section 21 or constituted an association under section 23;
- (b) “Minister” means the Minister of Agriculture and Food;
- (c) “Superintendent” means an officer of the Ministry of Agriculture and Food designated by the Minister as the Superintendent of Agricultural Associations. R.S.O. 1970, c. 8, s. 1; 1971, c. 50, s. 3 (1); 1972, c. 1, s. 1.

2. The following associations, societies and organizations are bodies corporate under this Act:

Certain
bodies are
corporations
under Act

The Ontario Fruit and Vegetable Growers' Association,
The Entomological Society of Ontario,
The Dairymen's Association of Eastern Ontario,
The Dairymen's Association of Western Ontario,
The Ontario Poultry Association,
The Eastern Ontario Poultry Association,
The Ontario Bee-keepers' Association,
The Ontario Agricultural and Experimental Union,
The Ontario Horse Breeders' Association,
The Gardeners' and Florists' Association,
The Ontario Corn Growers' Association,
The Ontario Plowmen's Association,
The Ontario Swine Breeders' Association,

and such other associations, societies, institutes or organizations as the Lieutenant Governor in Council designates. R.S.O. 1970, c. 8, s. 2.

3. The membership of each association shall consist of annual subscribers, and the membership fee shall be fixed by by-law. R.S.O. 1970, c. 8, s. 3.

Membership

**Constitution
and by-laws**

4. Each association shall have a constitution and by-laws under which the association shall be conducted, and the constitution and by-laws, and any change, alteration or repeal thereof shall be submitted to and approved by the Minister before the same has force or effect. R.S.O. 1970, c. 8, s. 4.

**Annual
meeting**

5. Each association shall hold an annual meeting at such time and place as are determined by by-law. R.S.O. 1970, c. 8, s. 5.

**Election of
directors**

6. Each association, at its annual meeting, shall elect a board of directors, the number of directors, their representation of certain districts or classes of members, and their mode of selection being determined by by-law. R.S.O. 1970, c. 8, s. 6.

**Non-
members,
election of**

7. The members may elect as director a person not a member of the association, but the person so elected must, within ten days, become a member, and he is entitled to act as director only after he has become a member of the association. R.S.O. 1970, c. 8, s. 7.

**Statements
at annual
meeting**

8. At each annual meeting the retiring officers shall present a full report of their proceedings and of the proceedings of the association and a detailed statement of the receipts and expenditure for the previous year and of the assets and liabilities, duly audited, and a copy of the report and of each of the statements of the receipts and expenditure, together with a list of the members and a list of the officers elected, and also such general information on matters of special interest to each association as the association has been able to obtain, shall be sent to the Minister within forty days after the holding of the annual meeting. R.S.O. 1970, c. 8, s. 8.

Officers

9.—(1) The directors shall, from among themselves, elect a president and one or more vice-presidents and shall also from among themselves or otherwise elect a secretary and a treasurer or a secretary-treasurer.

Quorum

(2) Except where otherwise provided, a majority of the directors of the association forms a quorum. R.S.O. 1970, c. 8, s. 9.

**Powers of
directors**

10. The directors have full power to act for and on behalf of the association, and all grants of money and other funds of the association shall be received and expended under their direction, subject to the by-laws and regulations of the association. R.S.O. 1970, c. 8, s. 10.

11. The Minister may appoint a person who shall audit^{Auditing of accounts} the accounts of any association, and such auditor shall present a report of the result of his audit to the officers of the association, and also to the Minister. R.S.O. 1970, c. 8, s. 11.

12. The members of the association may by by-law provide^{Right of voting} that only those members who have paid their subscriptions at least one week in advance of the annual meeting are qualified to vote at the annual meeting for the election of directors. R.S.O. 1970, c. 8, s. 12.

13. Except as otherwise provided, a vacancy occurring by^{Vacancies in offices} the death or resignation, or failure to qualify as a member, of any officer or director may be filled by the remaining officers of the association, and it is the duty of such officers to nominate and appoint a fit and proper person to fill the office for the unexpired term of the person so dying or resigning; but, in the event of the remaining officers being insufficient to form a quorum or if, for any reason, a quorum cannot be obtained, then persons to fill the vacant offices shall be elected in the manner provided in section 14. R.S.O. 1970, c. 8, s. 13.

14.—(1) In the event of an election of any directors of an^{Continuance in office} association not being held at the time or place directed by by-law or being for any reason illegal and void, the persons in office at the time when such officers or directors should have been elected shall continue to be the officers of the association until their successors are legally appointed.

(2) In the event of any such non-election or illegal election,^{Failure to elect, special meeting} a special meeting of the members of the association shall, as soon as practicable, be called in the manner provided by this Act, for the election of such directors, and at such meeting the election of officers shall take place, and the persons elected shall thenceforth, until their successors are appointed, be the officers of the association. R.S.O. 1970, c. 8, s. 14.

15. A special meeting of the directors of an association may^{Special meeting of directors} be called by the president thereof or, in his absence or on his neglect, by the vice-president, or, in the absence or on the neglect of the president and vice-president, by any three members of the association, of which meeting at least seven days notice shall be given to each member. R.S.O. 1970, c. 8, s. 15.

16.—(1) The treasurer of every association before enter-^{Security by treasurer}ing upon the duties of his office shall give such security either by joint or several covenant with one or more sureties, or otherwise as the board of directors considers necessary, for the faithful performance of his duties and especially for the

due accounting for and paying over of all money that comes into his hands.

Duty of
board as to
security

(2) It is the duty of the board in each year to inquire into the sufficiency of the security given by the treasurer and to report thereon and, where the same treasurer is reappointed from year to year, his reappointment shall not be considered as a new term of office but as a continuation of the former appointment, and any bond or security given to the association for the faithful performance of his duties under such reappointment continues valid as against the parties thereto.

Personal
responsi-
bility of
officers
for loss

(3) If the officers of an association neglect to procure and maintain proper and sufficient security, they are personally responsible for all funds of the association in the possession of the treasurer. R.S.O. 1970, c. 8, s. 16.

Legislative
grant

17.—(1) Every association is entitled to receive annually out of the moneys appropriated by the Legislature for the purpose a specified sum on condition,

- (a) that the number of *bona fide* members is at least fifty;
- (b) that the secretary of the association will, on or before the 1st day of September in each year, transmit to the Minister an affidavit, stating the number of members who have paid their subscriptions for the current year, and the total amount of such subscriptions;
- (c) that this Act has been complied with; and
- (d) that none of the funds of the association, from whatever source derived, have been expended in a manner inconsistent with the purposes of organization of the association.

Grants from
municipal
councils

(2) Any municipal council may grant or loan money or grant land in aid of any agricultural association formed within the limits of the municipality, or partly within the limits of such municipality and partly within the limits of other municipalities, or wholly within the limits of an adjoining municipality, when such association has made the returns required by this Act, but the total amount or value of the money or land granted or loaned by any municipality to an agricultural association under this section shall not exceed \$5,000 in the case of a city, \$2,000 in the case of a town and \$1,000 in the case of a village. R.S.O. 1970, c. 8, s. 17.

18.—(1) Where the Superintendent is satisfied, after a hearing, that an association has ceased for twelve months to do business as required by this Act and by its constitution and by-laws, or that the business of the association is not being properly conducted, he may recommend to the Minister that the corporate powers of the association be forfeited and the Minister may, after considering the record of the proceedings before the Superintendent and affording to any party to the proceedings an opportunity for argument, by order declare that the corporate powers of the association are forfeited, and such powers shall thereupon cease and the Minister may give such directions as he considers proper to wind up the affairs of the association. ^{Forfeiture of powers in non-user}

(2) The association, the complainant if any, and such other ^{Parties} persons as the Superintendent may specify are parties to proceedings before the Superintendent under subsection (1).

(3) The Superintendent or the Minister, as the case may be, ^{Stated case} may, of his own motion or upon the request of any party to proceedings under this section, state a case in writing to the Divisional Court setting forth any question of law that arises in the proceedings and the facts material thereto.

(4) If the Superintendent or the Minister, as the case may be, ^{Refusal to state case} refuses to state a case under this section, the party requesting it may apply to the Divisional Court for an order directing him to state such a case.

(5) Where a case is stated under this section, the Divisional ^{Decision of court} Court shall hear and determine in a summary manner the question raised and shall certify its decision to the Superintendent or to the Minister, as the case may be, and the Superintendent or the Minister shall dispose of the proceedings under subsection (1) in accordance therewith. 1971, c. 50, s. 3 (2).

19. The Ontario Horticultural Exhibition, the Ottawa ^{Certain fairs and exhibitions incorporated} Winter Fair, the Peninsular Winter Fair and such other organizations as are designated by the Lieutenant Governor in Council are corporate bodies under this Act with power to acquire and hold land as a site for fairs and exhibitions, to sell, mortgage, lease or otherwise dispose of the same or any other property held by such body, and the Lieutenant Governor in Council may prescribe such constitution, rules and regulations as are considered necessary. R.S.O. 1970, c. 8, s. 19.

20.—(1) Any association, society, institute or organization ^{Power of associations to acquire and hold land} mentioned in or designated under section 2 has power to acquire and hold land for such purposes as the Lieutenant Governor

in Council approves and has power to sell, mortgage, lease or otherwise dispose of such land.

Power of
Lieutenant
Governor
in Council
to regulate

(2) The Lieutenant Governor in Council may regulate and govern the acquisition, holding or disposition of land by associations, societies, institutes or organizations, or by any one or more of them. R.S.O. 1970, c. 8, s. 20.

Admission
of other
societies

21. Upon the petition of any association or society not subject to this Act but formed for the purpose of advancing the interests of any branch of agriculture being presented to the Lieutenant Governor in Council, the Lieutenant Governor in Council may declare that this Act applies to the association or society so petitioning, and thereafter this Act applies to such association or society in the same manner and to the same extent as if it had been incorporated under this Act. R.S.O. 1970, c. 8, s. 21.

Advisory
board for
live stock

22.—(1) An advisory board for live stock may be formed to advise the Minister regarding matters of interest to the live stock industry.

Board,
powers and
duties of

(2) The Lieutenant Governor in Council may direct how the board shall be constituted, and may prescribe the duties and powers of the board.

Allowances
for expenses

(3) Members of the advisory board shall receive an allowance for their time and their necessary travelling expenses in attending meetings of the board or a committee of the board. R.S.O. 1970, c. 8, s. 22.

Farmers' and
women's
institutes

23.—(1) The formation of boards of agriculture, farmers' institutes and women's institutes for the purpose of disseminating information in regard to agriculture and of improving domestic life shall be permitted under this Act, and the same constitute associations under this Act.

Regulations

(2) The Lieutenant Governor in Council may make regulations providing for the number and location of boards of agriculture, farmers' institutes and women's institutes, for their general guidance and direction, and fixing the grants and the conditions upon which the grants are to be paid. R.S.O. 1970, c. 8, s. 23.

CHAPTER 9

Agricultural Committees Act

1. In this Act,

Interpre-
tation

- (a) "agricultural organization" includes an agricultural co-operative, agricultural association, agricultural society, agricultural club and any branch of any of them;
- (b) "agricultural representative" means an agricultural representative appointed under the *Agricultural Representatives Act*; R.S.O. 1980, c. 12
- (c) "county" includes a territorial district;
- (d) "Minister" means the Minister of Agriculture and Food;
- (e) "Ministry" means the Ministry of Agriculture and Food. R.S.O. 1970, c. 9, s. 1; 1972, c. 1, s. 1.

2.—(1) A committee consisting of not more than fifteen persons may be formed in any county, and the name of every such committee shall bear the name of such county. Committee, formation

(2) Where only one agricultural representative has been appointed for two counties, one committee may be formed for the two counties. One committee for two counties

(3) Where two agricultural representatives have been appointed for one county, two committees may be formed for the county. R.S.O. 1970, c. 9, s. 2. Two committees for one county

3.—(1) Where an agricultural representative in a county receives written notice from any three or more agricultural organizations within his county requesting the organization of an agricultural committee, he shall forthwith call a general meeting of representatives of the agricultural organizations in the county for the purpose of forming a committee. Organization

(2) At the meeting a committee of not more than thirteen persons shall be selected by such mode as is determined at the meeting for the current year or until their successors are Selection of committee

selected and every agricultural organization is entitled to at least one representative on the committee, unless there are more than thirteen agricultural organizations represented at the meeting, in which event one person may be selected as the representative of two or more agricultural organizations.

Chairman,
vice-
chairman

(3) The committee so selected shall appoint an acting chairman and acting vice-chairman from among themselves and the agricultural representative shall be the acting secretary-treasurer of the committee.

Report to
Minister

(4) A report of the meeting, certified by the acting chairman and the acting secretary-treasurer showing the names of the agricultural organizations represented at the meeting and the names and addresses of the persons selected as members of the committee, together with such other information as the Minister may require, shall be forwarded to the Minister within ten days after the holding of the meeting. R.S.O. 1970, c. 9, s. 3.

Committee
declared
agricultural
committee

4.—(1) Upon receipt of the report mentioned in subsection 3 (4), the Minister may declare such committee to be an agricultural committee.

Members

(2) The members of the committee shall be members of the agricultural committee and the agricultural representative shall be the secretary-treasurer. R.S.O. 1970, c. 9, s. 4.

Appoint-
ment of
members:

5.—(1) One member may be appointed to the committee by the member or members of the Legislature whose electoral district or districts include any rural part of the county and such member shall hold office during pleasure.

in county

(2) In the case of a county agricultural committee, one member may be appointed annually by the county council.

in district

(3) In the case of a district agricultural committee, one member may be appointed by the Minister and shall hold office during pleasure. R.S.O. 1970, c. 9, s. 5.

Who to be
members of
committee

6. No person shall be selected or appointed as a member of a committee except a farmer, farm woman, retired farmer, farm youth or an official of an agricultural organization. R.S.O. 1970, c. 9, s. 6.

Annual
meeting

7. The agricultural representative shall call an annual meeting of representatives of all agricultural organizations in the county and members of the agricultural committee for the ensuing year shall be selected and a chairman and vice-chairman shall be elected thereat in such manner as is prescribed by the rules of the agricultural committee. R.S.O. 1970, c. 9, s. 7.

8. The objects and purposes of an agricultural committee ^{Objects and purposes} are,

- (a) to co-operate with and make suggestions to the agricultural representative;
- (b) to consider and make recommendations to appropriate authorities with respect to soil conservation, reforestation, weed control, health of animals, plant diseases, crop production, marketing problems and such other matters as are considered advisable for the improvement of agriculture in the county;
- (c) to co-ordinate the undertakings of the various agricultural organizations in the county;
- (d) to assist in promoting farm youth activities in the county. R.S.O. 1970, c. 9, s. 8.

9. The Minister may assign to any committee any matter ^{Assignment of matter or undertakings} or undertaking that he considers of special interest to agriculture. R.S.O. 1970, c. 9, s. 9.

10. An agricultural committee may initiate or promote any ^{Promotion of matter or undertaking} matter or undertaking for the purpose of improving agriculture. R.S.O. 1970, c. 9, s. 10.

11. Subject to the approval of the Minister, an agricultural committee may require producers of any agricultural product in the county to register their names and addresses with the secretary-treasurer and to furnish such information respecting the production, other than cost, of such agricultural product as the agricultural committee determines. R.S.O. 1970, c. 9, s. 11. ^{Registration of producers}

12. An agricultural committee may establish an executive ^{Executive committee} committee to consist of three or five members for such purposes as the committee determines. R.S.O. 1970, c. 9, s. 12.

13. The Lieutenant Governor in Council may make ^{Regulations} regulations respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act. R.S.O. 1970, c. 9, s. 13.

14. Subject to the approval of the Minister, the travelling ^{Expenses} expenses of the members shall be paid out of the moneys appropriated by the Legislature for the purpose. R.S.O. 1970, c. 9, s. 14.

CHAPTER 10

Agricultural Development Finance Act

1.—(1) The Treasurer of Ontario may borrow money by means of deposits in any amounts and from any persons and may open offices for this purpose at such places in Ontario as he finds expedient. Powers of Treasurer of Ontario to borrow

(2) Moneys deposited under this section are subject to attachment in the same manner as money deposited in a chartered bank. Moneys subject to attachment R.S.O. 1970, c. 11, s. 1.

2. The Lieutenant Governor in Council may from time to time fix the conditions as to interest and repayments that will govern such deposits. Conditions as to interest and payment R.S.O. 1970, c. 11, s. 2.

3. Moneys borrowed under this Act shall be used for any of the following purposes: for the public service, for works carried on by commissioners on behalf of Ontario, for the covering of any debt of Ontario on open account, for paying any floating indebtedness of Ontario, and for the carrying on of the public works authorized by the Legislature. Use of moneys R.S.O. 1970, c. 11, s. 3.

4. All expenses incurred in the administration of this Act shall be paid out of and all revenue paid into the Consolidated Revenue Fund. Expenses and revenues R.S.O. 1970, c. 11, s. 4.

5. The Lieutenant Governor in Council may make regulations respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act. Regulations R.S.O. 1970, c. 11, s. 5.

CHAPTER 11

Agricultural Rehabilitation and Development Act (Ontario)

1. In this Act,

Interpre-
tation

- (a) "Directorate" means the Agricultural Rehabilitation and Development Directorate of Ontario;
- (b) "Minister" means the Minister of Agriculture and Food;
- (c) "project" means a project for,
 - (i) the more efficient use and economic development of lands,
 - (ii) the development of income and employment opportunities in rural areas and improving standards of living in those areas, or
 - (iii) the development and conservation for agricultural purposes of water supplies and for soil improvement and conservation that will improve agricultural efficiency;
- (d) "research program" means a program of research and investigation respecting,
 - (i) the more effective use and economic development of lands,
 - (ii) the development of income and employment opportunities in rural areas and the improvement of standards of living in those areas, and
 - (iii) the development and conservation for agricultural purposes of water supplies and for soil improvement and conservation;
- (e) "Treasurer" means the Treasurer of Ontario and Minister of Economics. R.S.O. 1970, c. 12, s. 1; 1972, c. 3, s. 17 (1).

Agricultural
Rehabilita-
tion and
Development
Directorate
of Ontario
continued

2.—(1) The Agricultural Rehabilitation and Development Directorate of Ontario is continued as a body corporate responsible to the Minister.

Composition
of
Directorate

(2) The Directorate shall consist of three or more members appointed by the Lieutenant Governor in Council.

Chairman,
vice-
chairman

(3) The Lieutenant Governor in Council shall designate one of the members of the Directorate as chairman and one as vice-chairman.

Quorum

(4) A majority of the members of the Directorate constitutes a quorum, whether or not a vacancy exists in the membership of the Directorate.

Officers
and
employees

(5) The Lieutenant Governor in Council may appoint such officers, clerks and employees as are necessary for the conduct of the affairs of the Directorate. R.S.O. 1970, c. 12, s. 2.

Powers of
Directorate

3.—(1) Subject to the approval of the Lieutenant Governor in Council, the Directorate has power,

(a) to acquire or lease lands for the purpose of projects;

(b) to equip and develop lands for projects;

(c) to enter into agreements with persons for use of things or services provided under projects;

(d) to carry out projects in respect of which agreements have been entered into by the Minister under this Act; and

(e) to do such acts as are necessary or expedient for the carrying out of its operations and undertakings.
R.S.O. 1970, c. 12, s. 3 (1); 1972, c. 1, s. 2.

Delegation
of powers

(2) The Directorate may, in respect of any project, delegate to any ministry of the Government of Ontario, or to any municipal council, or to any authority under the *Conservation Authorities Act*, or to any board or commission whose members are appointed by the Lieutenant Governor in Council, any or all of the powers of the Directorate under subsection (1). R.S.O. 1970, c. 12, s. 3 (2); 1972, c. 1, s. 2.

R.S.O. 1980,
c. 85

Power to
borrow
money and
issue
securities

(3) The Directorate has the power to borrow money and to issue securities for the purpose of carrying out any of its objects and to make such securities payable as to principal and interest at such time or times and in such manner and in such place or places as the Directorate determines.

(4) The Directorate, in carrying out its objects, has the powers set out in sections 23 and 275 of the *Corporations Act*. R.S.O. 1970, c. 12, s. 3 (3, 4). Additional powers
R.S.O. 1980,
c. 95

4.—(1) The Lieutenant Governor in Council may authorize the Treasurer for and on behalf of Ontario to guarantee the payment of any securities issued by the Directorate, the repayment of any advances made by chartered banks to the Directorate and the payment of any other indebtedness incurred by the Directorate. Provincial guarantee

(2) The form of any such guaranty and the manner of its execution shall be determined by the Lieutenant Governor in Council. R.S.O. 1970, c. 12, s. 4. Form of guaranty

5. All moneys received by the Directorate from the operation of its undertakings or otherwise shall be applied to, Application of moneys

(a) operating expenses;

(b) payment of interest on indebtedness; and

(c) a sinking fund established by the Treasurer for the repayment of securities guaranteed by the Treasurer under subsection 4 (1) and for the retirement of any other indebtedness of the Directorate,

and any surplus moneys remaining in any year after paying operating expenses and interest on indebtedness and repaying any part of the principal moneys payable in that year shall be used for reducing the cost of operating the projects, or any of them, reducing the fees, rents or other charges charged or made by the Directorate or setting up such reserve funds as the Directorate determines. R.S.O. 1970, c. 12, s. 5.

6. The fiscal year of the Directorate commences on the 1st day of April in each year and ends on the 31st day of March in the following year. R.S.O. 1970, c. 12, s. 6. Fiscal year

7.—(1) The Directorate shall make a report annually to the Minister, including a report on all projects of the Directorate and the operations thereof and a financial statement certified by the Provincial Auditor and such other matters relating to the work of the Directorate as the Minister requires. Annual report

(2) A copy of the report shall be filed with the Minister who shall submit the report to the Lieutenant Governor in Council and shall then lay the report before the Assembly if it is in session or, if not, at the next ensuing session. R.S.O. 1970, c. 12, s. 7. Tabling

Audit

8. The accounts and financial transactions of the Directorate shall be audited annually by the Provincial Auditor, and a report of the audit shall be made to the Directorate and to the Treasurer. R.S.O. 1970, c. 12, s. 8.

Agreement
with
Canada for
efficient
use and
economic
development
of lands

9.—(1) The Minister may, with the approval of the Lieutenant Governor in Council, enter into an agreement with the Government of Canada providing for,

- (a) the undertaking jointly by the Government of Ontario or any agency thereof with Canada of projects for the more efficient use and economic development of lands specified in the agreement; or
- (b) the payment to Ontario of contributions in respect of the cost of such projects undertaken by Ontario or any agency thereof.

Programs
of research
and
investigation

(2) The Minister may cause to be prepared and undertaken directly or in co-operation with Canada programs of research and investigation respecting the more effective use and economic development of lands in Ontario. R.S.O. 1970, c. 12, s. 9.

Agreement
with
Canada for
development
of income
and
employment
opportunities
and for
improving
standards of
living in
rural areas

10.—(1) The Minister may, with the approval of the Lieutenant Governor in Council, enter into an agreement with the Government of Canada providing for,

- (a) the undertaking jointly on behalf of the Government of Ontario or any agency thereof with Canada of projects for the development of income and employment opportunities in rural areas specified in the agreement and for improving standards of living in those areas; or
- (b) the payment to Ontario of contributions in respect of the cost of such projects undertaken by Ontario or any agency thereof.

Programs
of research
and
investigation

(2) For the purpose of assisting the development of income and employment opportunities in rural areas in Ontario and the improvement of standards of living in those areas, the Minister may cause to be prepared and undertaken with Canada programs of research and investigation, and may co-ordinate such programs with other similar programs being undertaken in Ontario. R.S.O. 1970, c. 12, s. 10.

Agreement
with
Canada
for the
development
and
conservation
of water
supplies
and for soil
improvement
and
conservation

11.—(1) The Minister may, with the approval of the Lieutenant Governor in Council, enter into an agreement with the Government of Canada providing for,

- (a) the undertaking jointly with Canada of,
 - (i) projects for the development and conservation of water supplies for agricultural purposes, and
 - (ii) projects for soil improvement and conservation that will improve agricultural efficiency in Ontario or in any area thereof specified in the agreement; or
- (b) the repayment to Ontario of contributions in respect of the cost of such projects undertaken by Ontario or any agency thereof.

(2) The Minister may cause to be prepared and undertaken directly or in co-operation with Canada programs of research and investigation for the development and conservation of water supplies and for soil improvement and conservation in Ontario. R.S.O. 1970, c. 12, s. 11.

12. Every agreement entered into by the Minister shall

- (a) specify the respective proportions of the cost of any project to which the agreement relates that shall be paid by the governments of Canada and of Ontario or the contribution in respect of any such project that shall be paid by Canada;
- (b) specify the authority that shall be responsible for the undertaking, operation and maintenance of any project or any part thereof to which the agreement relates;
- (c) specify the respective proportions of the revenues from any project to which the agreement relates that are to be paid to Canada and to Ontario; and
- (d) specify the terms and conditions as to the operation and maintenance of any project to which the agreement relates and the charges, if any, to be charged to persons to whom any of the benefits of the project are made available. R.S.O. 1970, c. 12, s. 12.

13. The moneys required for the cost of administration of this Act shall be paid out of moneys appropriated therefor by the Legislature. R.S.O. 1970, c. 12, s. 13.

Regulations

14. The Lieutenant Governor in Council may make regulations,

- (a) providing for the establishment of advisory committees and the appointment of the members thereof and the payment of the remuneration and expenses of such members in the carrying out of their duties;
 - (b) respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act.
- R.S.O. 1970, c. 12, s. 14.

CHAPTER 12

Agricultural Representatives Act

1. In this Act,

Interpre-
tation

(a) "agricultural representative" means a person appointed under the *Public Service Act* to carry out the duties of agricultural representative for a county, provisional county, district municipality, regional municipality or territorial district in Ontario; R.S.O. 1980, c. 418

(b) "assistant agricultural representative" means a person appointed under the *Public Service Act* to assist an agricultural representative in the carrying out of his duties. 1973, c. 112, s. 1, *part*.

2. The agricultural representatives and assistant agricultural representatives shall perform such duties as the Minister of Agriculture and Food, or such officer of the Ministry of Agriculture and Food as he may designate, may from time to time direct, and any moneys appropriated by the Legislature for the purposes of this Act shall be expended subject to such direction. 1973, c. 112, s. 2. Duties and
expenditure

3.—(1) The county council shall, in each year on or before a date to be fixed by the Minister of Agriculture and Food, pay into a bank to the credit of the agricultural representative in charge of each office in the county the sum of \$500 for the purpose of assisting in carrying on the work of the agricultural representative, and such sum shall be paid out from time to time by the agricultural representative with the approval of the Minister of Agriculture and Food or of the officer designated as provided in section 2. County
grants

(2) An annual statement of the disposition of the sum so set apart together with a statement of the work carried on by each agricultural representative in the county during the preceding year shall be furnished to the county council. R.S.O. 1970, c. 13, s. 4. Annual
statement

(3) Every district and regional municipality shall be deemed to be a county for the purposes of this section. 1971, c. 45, s. 1. District and
regional
municipalities
deemed
counties

CHAPTER 13

Agricultural Research Institute of
Ontario Act

1. In this Act,

Interpre-
tation

(a) “Director of Research” means the administrator of
the Agricultural Research Institute of Ontario;

(b) “Minister” means the Minister of Agriculture and
Food;

(c) “research” means research carried out and services
provided in respect of agriculture, veterinary medicine
and household science;

(d) “Research Institute” means the Agricultural Re-
search Institute of Ontario. R.S.O. 1970, c. 14, s. 1.
- 2.—(1) The Agricultural Research Institute of Ontario is Agricultural
continued as a body corporate responsible to the Minister. Research
Institute
of Ontario
continued
- (2) The Research Institute shall consist of not more than Composition
fifteen members appointed by the Lieutenant Governor in of Research
Institute
Council.
- (3) The Lieutenant Governor in Council shall appoint from Chairman,
the persons appointed under subsection (2) a chairman and a vice- chairman
vice-chairman of the Research Institute.
- (4) An appointment under subsection (2) shall be for a term Term of
of not more than three years but any person is eligible for appointment
- (5) When the term of a member of the Research Institute Expiration
expires, he continues to be a member until his successor is of term
appointed.
- (6) A majority of the members of the Research Institute Quorum
constitutes a quorum.
- (7) The vice-chairman shall, in the absence or disability Absence of
of the chairman, possess and exercise the powers and duties chairman
of the chairman.

Remunera-
tion

(8) The members of the Research Institute shall receive such remuneration and expenses as the Lieutenant Governor in Council determines. R.S.O. 1970, c. 14, s. 2.

Duties of
Research
Institute

3. The duties and responsibilities of the Research Institute are,

- (a) to make rules governing its procedures;
- (b) to appoint an executive committee and such other committees as it considers advisable and to delegate to any such committee any of its duties and responsibilities;
- (c) to inquire into programs of research in respect of agriculture, veterinary medicine and household science;
- (d) to select and recommend areas of research for the betterment of agriculture, veterinary medicine and household science; and
- (e) to stimulate interest in research as a means of developing in Ontario a high degree of efficiency in the production and marketing of agricultural products. R.S.O. 1970, c. 14, s. 3.

Property

4.—(1) All property heretofore or hereafter granted, conveyed, devised or bequeathed for purposes of research to, or to any person in trust for, any institution of the Ministry of Agriculture and Food that is engaged in research is vested in the Research Institute, subject to any trust affecting the same. R.S.O. 1970, c. 14, s. 4 (1); 1972, c. 1, s. 1.

Moneys for
research

(2) The Research Institute may take by gift, grant, donation or bequest moneys for use in research.

Idem

(3) Moneys received by the Research Institute under subsection (2) shall be held in trust by the Director of Research and shall be allocated for programs of research in accordance with the terms, if any, of the gift, grant, donation or bequest. R.S.O. 1970, c. 14, s. 4 (2, 3).

Expenditure

5. Except with the approval of the Minister, the Research Institute shall not incur any liability or make any expenditure that is not provided for in the income for the Research Institute unless provided for by moneys appropriated therefor by the Legislature or for which funds otherwise have been furnished therefor. R.S.O. 1970, c. 14, s. 5.

6. The accounts of the Research Institute are subject to audit by the Provincial Auditor. R.S.O. 1970, c. 14, s. 6. Audit of
accounts

7. The Research Institute shall submit an annual report on its affairs to the Minister, who shall submit the report to the Lieutenant Governor in Council and shall then lay the report before the Assembly if it is in session or, if not, at the next ensuing session. R.S.O. 1970, c. 14, s. 7. Annual
report

8. The Research Institute shall submit to the Minister such reports on its financial affairs and the progress of its work as the Minister from time to time requires. R.S.O. 1970, c. 14, s. 8. Other
reports

9.—(1) There shall be a Director of Research appointed by the Lieutenant Governor in Council who shall be the administrator of the business and affairs of the Research Institute. R.S.O. 1970, c. 14, s. 9 (1). Director
of Research

(2) The duties and responsibilities of the Director of Research are, Duties of
Director

- (a) to co-ordinate programs of research of the Research Institute with programs in comparable areas of research by other institutions and organizations;
- (b) to select, develop and maintain research programs in accordance with the needs of agriculture, veterinary medicine and household science in Ontario;
- (c) to maintain a balance of effort in research among various areas of research;
- (d) to inquire into the efficiency of programs of research undertaken in conjunction with academic work at other institutions of learning and research in Ontario;
- (e) to establish the operational budgets of the Research Institute for programs of research in agriculture, veterinary medicine and household science at the Ontario Agricultural College, the Ontario Veterinary College and the Macdonald Institute or any of them and at institutions of the Ministry of Agriculture and Food that are engaged in research and at other institutions in Ontario where the facilities and personnel are available for such programs; and

- (f) to determine matters of integration of research with the academic work of the Ontario Agricultural College, the Ontario Veterinary College and the Macdonald Institute and institutions of learning and research that are administered by the Ministry of Agriculture and Food. R.S.O. 1970, c. 14, s. 9 (2); 1972, c. 1, s. 1.

Supervision
by Director

10. The Director of Research shall have supervision over every program of research for which funds have been supplied by the Research Institute. R.S.O. 1970, c. 14, s. 10.

Estimates of
expenditures

11. The Director of Research shall prepare and submit to the Minister an estimate of all expenditures required during the next ensuing year. R.S.O. 1970, c. 14, s. 11.

Comptroller

12.—(1) There shall be a Comptroller for the Research Institute who is responsible to the Director of Research.

Duties of
Comptroller

(2) The Comptroller shall,

- (a) supervise the business affairs of the Research Institute;
- (b) prepare the budget for the Research Institute;
- (c) prepare such financial reports and statistical surveys as may be required by the Director of Research or by the Minister; and
- (d) perform such other duties and functions as may be assigned to him from time to time by the Director of Research or by the Research Institute. R.S.O. 1970, c. 14, s. 12.

Power to
acquire
patents, etc.

13. Subject to the approval of the Minister, the Research Institute may purchase or arrange for the use of any invention or any interest therein, or any rights in respect thereof, or any secret or other information as to any invention, and apply for, purchase or otherwise acquire, any patents, interest in patents, licences or other rights conferring any exclusive or non-exclusive or limited right to make, use or sell any invention or inventions and to use, exercise, develop, dispose of, assign or grant licences in respect of or otherwise turn to account the property rights or information so acquired, and possess, exercise and enjoy all the rights, powers and privileges that the owner of any invention or any rights in respect thereof or the owner of a patent or invention or of any rights thereunder may possess, exercise and enjoy. R.S.O. 1970, c. 14, s. 13.

CHAPTER 14

Agricultural Societies Act

1. In this Act,

Interpre-
tation

- (a) "board" means the board of a society;
- (b) "headquarters" means the place named as the headquarters in the declaration forming a new society or the place approved or named as the headquarters by the Minister or the place where a society held its last annual exhibition;
- (c) "Minister" means the Minister of Agriculture and Food;
- (d) "Ministry" means the Ministry of Agriculture and Food;
- (e) "society" means an agricultural society organized under this Act or under any predecessor of this Act;
- (f) "Superintendent" means the Director of the Agricultural and Horticultural Societies Branch of the Ministry. R.S.O. 1970, c. 15, s. 1; 1974, c. 46, s. 1.

2.—(1) Where any dispute arises as to the operation or ^{Disputes} construction of this Act, the Superintendent shall, after a hearing, decide such dispute.

(2) A party to a dispute under this section may ^{Appeal} appeal from a decision of the Superintendent to the Minister within fifteen days after receipt of a copy of the decision of the Superintendent and the Minister may, after considering the record of the proceedings before the Superintendent and affording to the party an opportunity to submit argument on the appeal, affirm, vary or annul the decision of the Superintendent.

(3) The Superintendent or the Minister, as the case may <sup>Stated
case</sup> be, may, of his own motion or upon the request of any party to a dispute or an appeal, state a case in writing

to the Divisional Court setting forth any question of law that arises at the hearing or on the appeal and the facts material thereto.

Idem

(4) If the Superintendent or the Minister, as the case may be, refuses to state a case under this section, the party requesting it may apply to the Divisional Court for an order directing him to state such a case.

Idem

(5) Where a case is stated under this section, the Divisional Court shall hear and determine the question raised in a summary manner and shall certify its decision to the Superintendent or the Minister, as the case may be, and the Superintendent or the Minister shall dispose of the dispute in accordance therewith. 1971, c. 50, s. 4 (1).

Organization

3.—(1) Subject to subsection (2), a society may be organized with headquarters at any place in Ontario. R.S.O. 1970, c. 15, s. 3 (1).

Recom-
mendations
of existing
society

(2) When it is proposed to organize a society with headquarters within forty kilometres of an existing society, the officers of the existing society shall be afforded a reasonable opportunity to make recommendations to the Minister regarding the advisability of organizing the proposed society, and the Lieutenant Governor in Council may, upon the recommendation of the Minister, grant permission for the organization of the proposed society. R.S.O. 1970, c. 15, s. 3 (2); 1978, c. 87, s. 2 (1).

Mode of
organization:

4. The mode of organization shall be as follows:

declaration

1. A declaration in the form prescribed by the Minister shall be signed by the persons who desire to organize a society, but such persons must be of the age of eighteen years or over and must reside within forty kilometres of the place designated in the declaration as the headquarters of such society.

signatories
to declara-
tion

2. The declaration shall be signed by at least sixty persons, but, in a provisional judicial district or provisional county, the number required to sign the declaration shall be forty.

fees payable
by
signatories

3. Every person who signs the declaration shall pay to the person having charge thereof the sum of not less than \$2 at the time of signing the declaration and all such sums of money become the property of the society upon its organization, but, where no society is organized, such sums shall be repaid to the persons entitled thereto.

4. Within one month after the required number of persons have signed the declaration, the declaration shall be forwarded to the Superintendent who may, with the approval of the Minister, authorize any person to call a meeting for the organization of the society. ^{transmitting declaration}
5. Such organization meeting shall be held during the month of January, or at such other time as the Superintendent may authorize, upon at least two weeks notice published in a newspaper having a general circulation in the district surrounding the headquarters of the society and by mailing a notice by prepaid mail to each person who has signed the declaration. ^{calling first meeting}
6. At the organization meeting, and at every annual and special meeting of a society, fifteen members shall form a quorum but, in a provisional judicial district or provisional county, ten members shall form a quorum. ^{quorum}
7. At the organization meeting there shall be elected a board of twelve directors who shall hold office until the next annual meeting or until their successors are elected, and such directors shall elect a president, a first vice-president and a second vice-president from among themselves. ^{election of officers}
8. The board shall consist of the directors and the president, first vice-president and second vice-president. ^{board}
9. At the organization meeting there shall be elected two auditors who shall hold office until the next annual meeting. ^{auditors}
10. A report of the organization meeting certified by the president, the secretary and the organizer, containing a statement of the members and a list of the officers elected and appointed, shall be sent to the Superintendent within one month after the holding of the meeting. R.S.O. 1970, c. 15, s. 4; 1974, c. 46, s. 2; 1978, c. 87, s. 2 (2). ^{transmission of report of organization meeting}

5.—(1) Upon receipt of the report mentioned in paragraph 10 of section 4, the Superintendent, with the approval of the Minister, may declare such society to be a society within the meaning of this Act and such society shall bear the name designated in the declaration as the headquarters or such other name as is determined by the members and approved by the Minister. ^{Declaration of society}

Change of name	(2) In case of a dispute as to the name of a society or in a case where in the opinion of the Minister the name of a society prejudicially affects the interest of another society, he may change the name of the society. R.S.O. 1970, c. 15, s. 5.
Persons entitled to membership	6. —(1) Every person is entitled to be a member of a society, but no person under eighteen years of age is eligible to vote at any meeting of the society or to hold office in the society.
Firms and companies may be members	(2) Subject to the by-laws of a society, a firm or an incorporated company may become a member thereof by the payment of the regular fee, but the name of one person only shall in any one year be entered as the representative or agent of such firm or company, and that person only shall exercise the privileges of membership in the society. R.S.O. 1970, c. 15, s. 6 (1, 2).
Membership fee	(3) In every society there shall be an annual membership fee of not less than \$2. 1974, c. 46, s. 3.
Additional directors	7. —(1) Upon the recommendation of the Superintendent, the Minister may authorize any society to elect not more than six additional directors and not more than six junior directors not over twenty-six years of age.
Election of directors in rotation	(2) Where a society is authorized to elect more than twelve directors, it may elect all of its directors in rotation, but in that case no director shall be elected for a term of more than three years.
Honorary directors	(3) Any society may appoint not more than six honorary directors, but no such honorary director is entitled to vote or take part in meetings of the board. R.S.O. 1970, c. 15, s. 7.
Objects of society	8. —(1) The objects of a society are to encourage interest, promote improvements in, and advance the standards of, agriculture, domestic industry and rural life by, <ol style="list-style-type: none"> (a) surveying and studying the agricultural and living conditions and by doing such acts as may assist in solving the rural economic and social problems of the district surrounding the headquarters of the society; (b) organizing and holding agricultural exhibitions and awarding premiums and exhibiting displays of farm products thereat; (c) holding public meetings and demonstrations for the purpose of discussing agricultural problems; (d) taking action to eradicate poisonous and noxious insects, weeds, animal parasites and diseases;

- (e) encouraging and promoting reforestation, rural beautification and exterior farm and homestead improvements;
- (f) encouraging young people to become interested in and adopt better agricultural and domestic practices and for such purposes to hold competitions;
- (g) holding races or trials of speed for horses. R.S.O. 1970, c. 15, s. 8 (1); 1974, c. 46, s. 4.

(2) A society that expends any of its funds in a manner inconsistent with the objects set out in subsection (1) forfeits all claims to participate in any legislative grant. R.S.O. 1970, c. 15, s. 8 (2). When grant forfeited

9.—(1) Every society shall hold an annual meeting during the month of January at such time and place as the board determines or, subject to the approval of the Superintendent, at such other time and place as are fixed by the by-laws of the society. Annual meeting

(2) At any such meeting only those members who were members of the society during the previous year and who have paid the membership fee for the current year are entitled to vote. Who may vote

(3) At least two weeks notice of every annual meeting shall be given by publication of a notice of the meeting in at least one newspaper having a general circulation in the municipality in which the headquarters of the society is situate and by mailing notices of the meeting to every member of the society at the address furnished to the secretary. Notice of annual meeting

(4) Where a society fails to hold its annual meeting at the time mentioned in subsection (1), the Minister may appoint a time and place for holding it. R.S.O. 1970, c. 15, s. 9. Minister may appoint time for meeting

10. At every annual meeting,

- (a) the board shall present a report of the activities and accomplishments of the society since the last annual meeting and a detailed statement of the receipts and expenditures since the last annual meeting and a statement of the assets and liabilities of the society, certified by the auditors, in the form prescribed by the Minister; and
- (b) the officers and other members of the board, including the auditors, shall be elected and appointed in the manner provided by section 4 and any additional, honorary and junior directors shall be elected and appointed. R.S.O. 1970, c. 15, s. 10.

Procedure at annual meeting

Statement
to be sent
to Superin-
tendent

11.—(1) A statement of officers and members and a copy of the report and financial statement in the form prescribed by the Minister and certified by the president, secretary and treasurer, or secretary-treasurer, and auditors to be true copies shall be forwarded to the Superintendent within ninety days after the holding of the annual meeting. 1974, c. 46, s. 5 (1).

Annual
returns

(2) The officers of every society shall, on or before the 1st day of March in every year, forward to the Superintendent a return in the form prescribed by the Minister verified by an affidavit of an officer of the society showing the amount expended during the previous year by the society for agricultural purposes. R.S.O. 1970, c. 15, s. 11 (2).

Statement
as to
competitions,
etc.

(3) Where a society exhibits a display of a farm product that is produced on a commercial basis or holds a field-crop or other competition or sponsors an amateur program, using local talent to provide entertainment, and such display, competition, or amateur program is approved by the Superintendent, the officers of the society shall within ninety days thereafter forward to the Superintendent on a form supplied by the Ministry a statement showing the particulars of the display, competition or amateur program including, where applicable, the number of entries and the expenditures, including prizes awarded, in connection therewith. 1974, c. 46, s. 5 (2).

Penalty
for false
statement

(4) Any officer of a society who wilfully makes a false statement in any report or statement required to be furnished under this Act is guilty of an offence and on conviction is liable to a fine of not more than \$100 or to imprisonment for not more than thirty days, but no prosecution under this subsection shall be commenced later than one year after the making of such report or statement. R.S.O. 1970, c. 15, s. 11 (4).

Special
meeting

12. On the petition of thirty members of a society, the secretary, and in his absence, the president or first vice-president, shall call a special general meeting for the transaction of the business mentioned in the petition and the meeting shall be advertised in the manner prescribed by subsection 9 (3) and the advertisements shall state the nature of the business to be transacted. R.S.O. 1970, c. 15, s. 12.

Minister
may require
information

13. The Minister may at any time require any society or any officer of a society to furnish such information regarding the society as he considers necessary or desirable and such information shall be accompanied by an affidavit of all or any of the officers of the society deposing to its accuracy. R.S.O. 1970, c. 15, s. 13.

14.—(1) In the event of failure to hold the annual meeting of a society in accordance with this Act, or in the event that the number of members of a society on the 1st day of September in any year is less than the number required for organization, the society is not entitled to receive any further legislative grant and shall be deemed to be dissolved, subject always to the direction of the Minister, and the persons comprising the board during the last year of the existence of the society shall be trustees of the assets of the society and shall forthwith deliver to the Superintendent a statement of the assets and liabilities of the society.

(2) Subject to the approval of the Minister, the Superintendent may direct the members of the board to pay the debts of the society out of the moneys and other assets remaining in their hands and to liquidate any of the assets for such purpose.

(3) Subject to the approval of the Minister, any moneys and other assets remaining after the payment of debts shall be disposed of by the board in such manner as they determine.

(4) When a society dissolves or ceases to exist, it may be reorganized with necessary modifications in the manner prescribed by section 4. R.S.O. 1970, c. 15, s. 14.

15. A meeting of the board shall be called by the secretary upon the direction of the president, or in his absence by the first vice-president, or in the absence of the president and the first vice-president, by the second vice-president, or by any three members of the board, by sending notice thereof to all the members of the board at least seven days before the time fixed for the meeting, but a meeting of the board may be held without notice immediately following any annual, regular or special meeting of the society. R.S.O. 1970, c. 15, s. 15.

16.—(1) Subject to the by-laws and regulations of the society, the board has power to act for and on behalf of the society in all matters.

(2) Seven of the members of the board constitute a quorum.

(3) In the event of a vacancy occurring on the board by the death or resignation of any officer or director or otherwise, the remaining members of the board have power to appoint any member of the society to fill the vacancy, but, when three or more vacancies occur at the same time, the Superintendent may order the remaining members of the board to call a special general meeting of the society in the manner prescribed by section 9 and directors shall be elected and appointed at such meeting to fill the vacancies.

Executive
committee

(4) The board, from among themselves, may appoint an executive committee of not more than five members to exercise and perform such of its powers and duties as the board prescribes.

Manager

(5) The board may appoint a manager to perform such of its powers and duties as it prescribes.

Secretary,
treasurer

(6) The board, from among themselves or otherwise, shall appoint a secretary and a treasurer, or a secretary-treasurer, who shall remain in office during pleasure, and the secretary or secretary-treasurer shall be a member of every committee that is appointed by the board and may be appointed managing director acting under the control and with the approval of the board. R.S.O. 1970, c. 15, s. 16 (1-6).

Remunera-
tion and
expenses

(7) No officer, director or member of a society, except the secretary, treasurer, secretary-treasurer or manager, shall receive any remuneration for carrying out his duties as officer, director or member, but travelling and living expenses may be allowed to any officer, director or member while engaged in duties on behalf of the society, and the board may fix such remuneration and travelling and living expenses, which shall be payable out of the funds of the society. 1974, c. 46, s. 6.

Meetings

17. Subject to section 9, the board may determine what regular or special meetings of the society are to be held during each year. R.S.O. 1970, c. 15, s. 17.

Security by
treasurer of
society

18.—(1) The treasurer or secretary-treasurer of every society, before entering upon the duties of his office, shall give such security to the society, either by joint or several covenant with one or more sureties, in such form and for such amount as the board considers necessary for the faithful performance of his duties, and especially for the due accounting for and paying over of all moneys that come into his hands.

Duty of
board as to
security

(2) It is the duty of the board in each year to inquire into the sufficiency of the security given by the treasurer or secretary-treasurer and to report thereon to the society, and, where the same treasurer or secretary-treasurer is reappointed from year to year, his reappointment shall not be considered as a new term of office but as a continuation of the former appointment and any security given to the society for the faithful performance of his duties under such reappointment continues valid as against the parties thereto.

Personal
responsi-
bility of
officers for
loss

(3) If the board neglects to procure and maintain proper and sufficient security, each member thereof is personally responsible for all funds of the society that may have been received by the treasurer. R.S.O. 1970, c. 15, s. 18.

19.—(1) By-laws and regulations of a society may be made, ^{By-laws and regulations} adopted, amended or repealed at any organization, annual or regular meeting of the society or at a special meeting of which notice has been given in the manner provided by subsection 9 (3). R.S.O. 1970, c. 15, s. 19 (1).

(2) The officers of a society may by their rules and regulations prohibit and prevent theatrical, circus or acro- ^{Preventing certain per-} batic performances, exhibitions or shows and may also ^{formances, huckstering, etc.} regulate or prevent the huckstering or trafficking in fruit, goods, wares or merchandise on the exhibition grounds or within 275 metres thereof on the day of an exhibition, and any person who, after notice of such rules and regulations, contravenes any provisions thereof is liable to be removed by an officer of the society, a person appointed under subsection 30 (1), or a police officer, and is liable to the penalties provided in this Act. 1974, c. 46, s. 7; 1978, c. 87, s. 2 (3).

20.—(1) Every society is a body corporate with power to ^{Incorporation and power to hold land} acquire and hold land as a site or as an enlargement of an existing site, and the society has and may exercise the like powers as to lands required for the enlargement of an existing site as in the case of lands required for the original site, for fairs and exhibitions, and, subject to the approval of a meeting of the society called for that purpose, may sell, mortgage, lease or otherwise dispose thereof or of any other property held by the society, but no lands of a society shall be mortgaged without the written approval of the Superintendent.

(2) At least two weeks previous notice of such meeting shall ^{Notice of meetings to consider disposition of property} be given by advertisement in at least one newspaper having a general circulation in the area surrounding the headquarters of the society, and at such meeting only those persons are entitled to vote who are members for the current year and who were members for the two previous years. R.S.O. 1970, c. 15, s. 20.

21. Subject to the approval of the Minister, a society may ^{Power to expropriate land} expropriate land selected as a site for fairs and exhibitions or as an enlargement of an existing site, and approved therefor at a meeting of the society called for that purpose, in accordance with the *Expropriations Act*, and the provisions of that Act ^{R.S.O. 1980, c. 148} apply to any expropriation under this section. R.S.O. 1970, c. 15, s. 21.

22. Any township society and town or village municipi- ^{Joint ownership of lands with municipality} pality that had, before the 4th day of March, 1868, jointly purchased and held any land or building for the purpose of agricultural fairs or exhibitions may continue jointly to hold the land or building, or may sell, mortgage, lease or otherwise dispose thereof, subject to the approval of a meeting of the society as provided in section 20. R.S.O. 1970, c. 15, s. 22.

Provincial
grants

23. On the recommendation of the Minister, every society is entitled to receive a grant out of the moneys appropriated by the Legislature for that purpose on condition,

- (a) that the number of paid-up members for the current year is not less than sixty, except in the case of societies organized in provisional judicial districts and a provisional county where the number of paid-up members shall not be less than forty;
- (b) that all reports and returns required by this Act have been made to the satisfaction of the Superintendent;
- (c) that the annual meeting has been held as required and the officers elected in accordance with section 10;
- (d) that the objects of the society as prescribed by section 8 have been strictly adhered to, and that none of the funds of the society, from whatever source derived, have been expended in any manner not in harmony with such objects; and
- (e) that all other provisions of this Act have been complied with. R.S.O. 1970, c. 15, s. 23.

Payment
of grants

24.—(1) Grants shall be paid to societies out of moneys appropriated for the purpose by the Legislature, except the moneys appropriated under sections 25 and 26, according to the following plan:

1. A newly-organized society, during the first three years of its existence, shall receive a grant each year equal to \$1 per member up to 300 members.
2. Where a society complies with subsection 11 (3), and its statement is satisfactory to the Superintendent, it shall receive a grant,
 - i. where it has sponsored a farm or home-stead improvement competition, equal to one-half of the sum expended by the society as shown by the statement of its expenditures for the competition, but in no case shall the grant be more than \$300,
 - ii. where it has sponsored a special event with light horses, equal to one-third of the sum expended by the society as shown by the statement of its expenditures for the event, but in no case shall the grant be more than \$500,

- iii. where it has sponsored an amateur program, using local talent to provide entertainment, equal to one-third of the sum expended by the society as shown by the statement of its expenditures for the amateur program, but in no case shall the grant be more than \$500, and
 - iv. where it has sponsored a display or competition not referred to in sub-paragraph i, ii or iii, equal to one-half of the sum expended by the society as shown by the statement of its expenditures for the display or competition, but in no case shall the grant be more than \$200 for a display or more than \$75 for a competition.
3. Where a society complies with subsections 11 (1) and (2) and its statement is satisfactory to the Superintendent, it shall receive a grant equal to one-third of the average amount expended by the society during the three preceding years for agricultural purposes, as shown by the statements forwarded to the Superintendent, but,
- i. societies in a provisional judicial district or provisional county shall receive their grants on the basis of double the amount of other societies,
 - ii. no grant shall be paid under this paragraph respecting an expenditure qualifying for a grant under paragraph 2, and
 - iii. no society shall in any year receive a grant in excess of \$1,500. R.S.O. 1970, c. 15, s. 24 (1); 1974, c. 46, s. 8.

(2) If the Superintendent, upon receiving proof on or before the 31st day of October in any year, by the joint affidavit of the president, secretary and treasurer or secretary-treasurer of an agricultural society, that rain or snow fell at the place of holding an exhibition before 3 o'clock in the afternoon on any day during which the exhibition was held or that during the exhibition or within thirty days prior thereto one or more buildings on the exhibition grounds was destroyed by fire or storm, is satisfied that as a consequence of such weather or such destruction the gate receipts were less than the average gate receipts for exhibitions held by the society during three previous normal years, the society is entitled to receive a

Allowance
where gate
receipts
reduced

grant of not more than 90 per cent of the difference between the gate receipts of the current year and the average amount of the gate receipts of such three previous years, but no society shall in any year receive a grant in excess of \$1,000 for any such loss in gate receipts.

Grant where
gate receipts
reduced
owing to wet
weather

(3) In the event of a society that has been organized for only two years suffering loss in gate receipts owing to wet weather, it shall receive a grant equal to 75 per cent of the difference between the gate receipts of the current year and those of the previous year, and, in case of loss of gate receipts from the above cause during the third year of a society's existence, the grant shall be 75 per cent of the difference between the gate receipts of that year and those of the average of the two previous years, but no society shall in any year receive a grant in excess of \$1,000 for any such loss in gate receipts.

Decrease
in grants

(4) Where the moneys appropriated by the Legislature are insufficient to pay the grants under subsections (2) and (3), the grants shall be decreased *pro rata*. R.S.O. 1970, c. 15, s. 24 (2-4).

Special aid
to certain
exhibitions

25. The money that is appropriated by the Legislature for the purpose of this section shall be divided among The Canadian National Exhibition Association of Toronto, The Central Canada Exhibition of Ottawa, and The Western Fair Association of London in proportion to the amount of money expended for agricultural purposes by such associations as mentioned in section 8, provided,

- (a) that not more than \$2,500 shall be paid to any such association;
- (b) that returns have been made to the Superintendent similar to those prescribed by section 11 in a manner satisfactory to the Superintendent;
- (c) that no other grants have been received under this Act; and
- (d) that the Minister has approved such grant,

but no such society shall in any year receive a grant in excess of 50 per cent of the moneys appropriated by the Legislature for the purpose of this section for such year. R.S.O. 1970, c. 15, s. 25.

Annual
grants on
account of
capital
expenditure

26. The Minister may make annual grants on account of capital expenditure to any society or class of society in such amounts and on such terms and conditions as the regulations

prescribe out of such moneys as are appropriated therefor by the Legislature. R.S.O. 1970, c. 15, s. 26.

27.—(1) Any municipal council may grant or loan money or grant land in aid of any agricultural society formed within the limits of the municipality, or partly within the limits of such municipality and partly within the limits of other municipalities, or wholly within the limits of an adjoining municipality, when such society has made the returns required by this Act. 1974, c. 46, s. 9.

Grants
from
municipal
councils

(2) If the grant is a loan of money to enable the society to acquire land, the municipality may hold the land so acquired or may take a mortgage thereon as security for the amount of the grant until the amount of the grant is repaid to the municipality.

Security
for loans
from municipal
councils

(3) Any such municipality owning land or buildings for public purposes may make agreements on such terms and for such periods as it considers expedient with any company formed under chapter 196 of the Revised Statutes of Ontario, 1897, or under any enactment that may be substituted therefor, or with any agricultural society for the use of such land or buildings, or either of them, or for the privilege of erecting upon such land, subject to such terms as may be agreed upon, such buildings as it may require for agricultural and industrial shows, and to give the company the power of renting such land and buildings, when owned by the company, to any agricultural society formed under this Act for the purposes of the annual show of the society, and to grant to such company or society the power to collect during such show, or at other times, as may be agreed, from any person wishing to go into or upon any such land or buildings, or for any privilege thereon, or for any carriage, wagon or other vehicle, or for any horse or other animal that may be taken thereon, such entrance fee or other charge as the company or society considers necessary or expedient.

Agreements
as to use of
buildings

(4) Any municipality may pass by-laws providing for the erection of buildings upon parks, fair grounds or other property belonging to the municipality for the joint purposes of the municipality and of any agricultural society, or other body, or trustees for any club or society, upon such agricultural society, other body, or trustees undertaking to contribute to the cost of such buildings, and in such case the municipality may grant leases for a term not exceeding twenty-one years to such agricultural society, other body, or trustees, for the use of such buildings at such time as to the council seems proper, and upon such terms as may be arranged with the council, and

By-laws for
common use
of buildings
on municipal
property

the powers hereby granted may be exercised in respect of any building erected since the 1st day of January, 1919. R.S.O. 1970, c. 15, s. 27 (2-4).

Exemption
from
taxation

28. The property of an agricultural society is exempt from taxation, other than taxes for local improvements, when in actual occupation by the society or by its tenants if the rent is applied solely for the purposes of the society. R.S.O. 1970, c. 15, s. 28.

Regulations

29. The Lieutenant Governor in Council may make regulations,

- (a) providing the terms and conditions upon which societies may hold races or trials of speed for horses and the amount of money that societies may award as prizes therefor;
- (b) subject to section 23, prescribing the terms and conditions upon which societies may receive grants out of the moneys appropriated by the Legislature;
- (c) limiting the exhibitors of any society to persons residing within defined areas;
- (d) prescribing the powers and duties of the officers of societies;
- (e) classifying societies that are societies within the meaning of this Act and designating the class to which each society belongs;
- (f) prescribing the terms and conditions on which grants may be made to any society or class of society on account of capital expenditure and prescribing the amounts of such grants or the minimum or maximum amounts of such grants;
- (g) respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act. R.S.O. 1970, c. 15, s. 29.

Appoint-
ments

30.—(1) The board of directors of any society holding a fair or exhibition may appoint for the duration of the fair or exhibition as many persons as may be required to carry out the duties referred to in subsection (2).

Duties of
persons
appointed

(2) Every person appointed under subsection (1) shall be paid by the society and it is his duty to protect the property of the society within the exhibition grounds and to

eject all persons who may be improperly within the grounds or behave in a disorderly manner or violate any of the rules or regulations of the society.

(3) No person shall wilfully hinder or obstruct an officer or servant of the society or a person appointed under subsection (1) in the execution of his duties. 1974, c. 46, s. 10. Obstruction of officer, etc.

31.—(1) The Minister may appoint a person to inspect the books and accounts of any society receiving legislative grants under this Act or to inquire into the affairs of such society, and every officer of the society shall, when required by such person, make available the books and accounts thereof for the purposes of such inspection or inquiry. Inspection

(2) A person appointed under subsection (1) has, for the purposes of an inspection or inquiry thereunder, the powers of a commission under Part II of the *Public Inquiries Act*, which Part applies to the inspection or inquiry as if it were an inquiry under that Act. 1971, c. 50, s. 4 (2), *part*. Powers under R.S.O. 1980, c. 411, Part II

32.—(1) Where the board of a society has reason to believe that any member or other person exhibiting any farm product, animal, fowl or other goods at an exhibition of the society has committed a fraud or made any misrepresentation in respect of such farm product, animal, fowl or other goods, the board may withhold payment or delivery of any premium or prize to such person, and the board shall forthwith furnish to him a written statement of its reasons for so doing. Fraud or misrepresentation by exhibitor

(2) A member or other person from whom a premium or prize has been withheld by the board of a society under subsection (1) may appeal, within fifteen days after receipt of the statement of the reasons of the board furnished under subsection (1), to a judge of the county or district court of the county or district in which the head office of the society is situate by filing a notice of appeal in the office of the clerk of the court and leaving a copy of the notice of appeal at the head office of the board. Appeal

(3) The appellant and the board from whose decision the appeal is taken are parties to an appeal under this section. Parties

(4) An appeal to a judge under this section shall be held by way of a hearing *de novo*. Hearing de novo

(5) On an appeal under this section, the judge may affirm, vary or annul the decision of the board and may order the board to pay or deliver any premium or prize withheld by it under this section. 1971, c. 50, s. 4 (2), *part*. Powers of judge

Offence

33. Every person who contravenes any of the provisions of this Act or the regulations or any rule or regulation of a society under subsection 19 (2) or who gains admission to the grounds contrary to the rules of the society is guilty of an offence, and on conviction is liable to a fine of not more than \$100. 1974, c. 46, s. 11.

CHAPTER 15

Agricultural Tile Drainage Installation Act

1. In this Act,

Interpre-
tation

- (a) "Board" means the Agricultural Licensing and Registration Review Board under the *Ministry of Agriculture and Food Act*; R.S.O. 1980,
c. 270
- (b) "Director" means the Director appointed for the purpose of this Act;
- (c) "drainage work" means a drainage system constructed of tile, pipe or tubing of any material beneath the surface of agricultural land, including integral inlets and outlets, for the purpose of improving the productivity of the land drained;
- (d) "inspector" means an inspector appointed under this Act;
- (e) "licence" means a licence under this Act;
- (f) "Minister" means the Minister of Agriculture and Food;
- (g) "regulations" means the regulations made under this Act. 1972, c. 38, s. 1; 1978, c. 100, s. 2 (1).

2.—(1) No person shall carry on the business of installing ^{Licences} a drainage work unless he is the holder of a licence for such purpose from the Director.

(2) No person shall be the operator of a machine used in ^{Idem} installing a drainage work unless he is the holder of a licence for such purpose from the Director.

(3) No person shall use, or permit or cause to be used, in ^{Idem} installing a drainage work a machine unless the owner of the machine has obtained a licence therefor from the Director and the licence is attached to and exposed on the machine. 1972, c. 38, s. 2.

Non-
application
of Act

3. Where a person performs the installation of a drainage work on agricultural land owned or occupied by him, this Act does not apply. 1972, c. 38, s. 3.

Issue of
licence

4.—(1) The Director shall issue a licence to carry on the business of installing drainage works to a person who makes application therefor in accordance with this Act and the regulations and pays the prescribed fee unless, after a hearing, he is of opinion that,

- (a) the applicant or, where the applicant is a corporation, its officers or directors, is or are not competent to carry on the business;
- (b) the past conduct of the applicant or, where the applicant is a corporation, of its officers or directors, affords reasonable grounds for belief that the business will not be carried on in accordance with law;
- (c) the applicant does not possess or will not have available all facilities and equipment necessary to carry on the business in accordance with this Act and the regulations; or
- (d) the applicant is not in a position to observe or carry out the provisions of this Act and the regulations.

Idem

(2) The Director shall issue a licence to be the operator of a machine used in installing drainage works to a person who makes application therefor in accordance with this Act and the regulations and pays the prescribed fee unless, after a hearing, he is of opinion that,

- (a) the applicant is not competent to operate the machinery or class thereof in respect of which the application is made;
- (b) the applicant has not attended the courses of instruction and passed the examinations prescribed in the regulations for the class of licence applied for;
- (c) the applicant has not completed the in-service training period prescribed in the regulations for the class of licence applied for; or
- (d) the applicant is not in a position to observe or carry out the provisions of this Act and the regulations.

Idem

(3) The Director shall issue a licence for a machine used in installing drainage works on application therefor by the owner

and payment of the prescribed fee unless, after a hearing, he is of opinion that the machine,

- (a) is not properly designed, constructed or equipped for the purposes for which it will be used ;
- (b) is not in good working order ; or
- (c) does not comply with performance standards prescribed in the regulations.

(4) Subject to section 5, the Director shall renew a licence ^{Renewal of licence} that is or has expired, on application by the licensee in accordance with this Act and the regulations and payment of the prescribed fee. 1972, c. 38, s. 4.

5.—(1) The Director may refuse to renew or may suspend ^{Refusal to renew licence, suspension or revocation} or revoke a licence to carry on the business of installing drainage works if, after a hearing, he is of opinion that,

- (a) the facilities and equipment used in the business do not comply with this Act and the regulations ;
- (b) the licensee or, where the licensee is a corporation, any officer, director or servant thereof has contravened or has permitted any person under his control or direction in connection with the business to contravene, any provision of this Act or the regulations and such contravention warrants refusal to renew, suspension or revocation of the licence ; or
- (c) any other ground for refusal to renew, suspension or revocation specified in the regulations exists.

(2) The Director may refuse to renew or may suspend or ^{Idem} revoke a licence to be the operator of a machine used in installing drainage works if, after a hearing, he is of opinion that,

- (a) the licensee has contravened or has permitted any person under his control or direction in connection with the operation of the machine to contravene any provision of this Act or the regulations and such contravention warrants a refusal to renew, suspension or revocation ; or
- (b) any other ground for refusal to renew, suspension or revocation specified in the regulations exists.

Idem

(3) The Director may refuse to renew or may suspend or revoke a licence for a machine used in installing drainage works if, after a hearing, he is of opinion that,

- (a) any ground for refusing to issue a licence exists;
- (b) the owner or any other person permitted to have the control or use of the machine has contravened any provisions of this Act or the regulations and such contravention warrants a refusal to renew, suspension or revocation; or
- (c) any other ground for refusal to renew, suspension or revocation specified in the regulations exists.

Continuation
of licence
pending
renewal

(4) Where, within the time prescribed therefor or, if no time is prescribed, before expiry of his licence, a licensee has applied for renewal of his licence and has paid the prescribed fee and observed and carried out the provisions of this Act and the regulations, his existing licence shall be deemed to continue until he has received the decision of the Director on his application for renewal. 1972, c. 38, s. 5.

Notice of
hearing

6.—(1) The notice of a hearing by the Director under section 4 or 5 shall afford to the applicant or licensee a reasonable opportunity to show or to achieve compliance before the hearing with all lawful requirements for the issue or retention of the licence.

Examination
of docu-
mentary
evidence

(2) An applicant or licensee who is a party to proceedings in which the Director holds a hearing shall be afforded an opportunity to examine before the hearing any written or documentary evidence that will be produced or any report the contents of which will be given in evidence at the hearing. 1972, c. 38, s. 6.

Variation of
decision by
Director

7. Where the Director has refused to issue or renew or has suspended or revoked a licence pursuant to a hearing he may at any time of his own motion or on the application of the person who was the applicant or licensee vary or rescind his decision, but the Director shall not vary or rescind his decision adversely to the interests of any person without holding a rehearing to which such person is a party and may make such decision pursuant to such rehearing as he considers proper under this Act and the regulations. 1972, c. 38, s. 7.

8.—(1) Where the Director refuses to issue or renew or ^{Appeal to Board} suspends or revokes a licence, the applicant or licensee may, by written notice delivered to the Director and filed with the Board within fifteen days after receipt of the decision of the Director, appeal to the Board.

(2) The Board may extend the time for the giving of notice ^{Extension of time for appeal} by an applicant or licensee under subsection (1), either before or after expiration of such time, where it is satisfied that there are *prima facie* grounds for appeal and that there are reasonable grounds for applying for the extension.

(3) Where an applicant or licensee appeals to the Board ^{Disposal of appeal} under this section, the Board shall hear the appeal by way of a hearing *de novo* to determine whether the licence should be issued, renewed, suspended or revoked and may, after the hearing, confirm or alter the decision of the Director or direct the Director to do any act he is authorized to do under this Act and as the Board considers proper and, for such purpose, the Board may substitute its opinion for that of the Director.

(4) Notwithstanding that an applicant or licensee has ^{Effect of decision pending disposal of appeal} appealed under this section from a decision of the Director, unless the Director otherwise directs, the decision of the Director is effective until the appeal is disposed of. 1972, c. 38, s. 9.

9.—(1) The Director, the appellant and such other persons as ^{Parties} the Board may specify are parties to the proceedings before the Board under this Act.

(2) Members of the Board assigned to render a decision ^{Members making decision not to have taken part in investigation, etc.} after a hearing shall not have taken part prior to the hearing in any investigation or consideration of the subject-matter of the hearing and shall not communicate directly or indirectly in relation to the subject-matter of the hearing with any person or with any party or his representative except upon notice to and opportunity for all parties to participate, but such members may seek legal advice from an adviser independent from the parties and in such case the nature of the advice should be made known to the parties in order that they may make submissions as to the law.

(3) The oral evidence taken before the Board at a hearing ^{Recording of evidence} shall be recorded and, if so required, copies or a transcript thereof shall be furnished upon the same terms as in the Supreme Court.

(4) The findings of fact of the Board pursuant to a hearing ^{Findings of fact} shall be based exclusively on evidence admissible on matters

R.S.O. 1980,
c. 484

that may be noticed under sections 15 and 16 of the *Statutory Powers Procedure Act*.

Only
members at
hearing to
participate
in decision

(5) No member of the Board shall participate in a decision of the Board pursuant to a hearing unless he was present throughout the hearing and heard the evidence and argument of the parties and, except with the consent of the parties, no decision of the Board shall be given unless all persons so present participate in the decision. 1972, c. 38, s. 10.

Appeal
to court

10.—(1) Any party to the hearing before the Board may appeal from the decision of the Board to the Divisional Court in accordance with the rules of court.

Minister
entitled
to be
heard

(2) The Minister is entitled to be heard by counsel or otherwise upon the argument of an appeal under this section.

Record to
be filed
in court

(3) The chairman of the Board shall file with the Registrar of the Supreme Court the record of the proceedings before the Board which, together with a transcript of the evidence before the Board, if it is not part of the Board's record, shall constitute the record in the appeal.

Powers of
court on
appeal

(4) An appeal under this section may be made on any question that is not a question of fact alone and the court may confirm or alter the decision of the Board or direct the Director to do any act he is authorized to do under this Act or may refer the matter back to the Board for reconsideration by the Board as the court considers proper and the court may substitute its opinion for that of the Director or the Board.

Effect of
decision of
Board
pending
disposal of
appeal

(5) Notwithstanding that an applicant or licensee has appealed under this section from a decision of the Board, unless the Board otherwise directs, the decision of the Board is effective until the appeal is disposed of. 1972, c. 38, s. 11.

Appointment
of Director
and
inspectors

11.—(1) For the purposes of this Act, the Minister may appoint a Director and one or more inspectors.

Powers of
inspector

(2) For the purposes of carrying out his duties under this Act, an inspector may at any time between sunrise and sunset enter any premises or building other than a dwelling house, but nothing in this section affects the issuance and execution of a warrant under section 142 of the *Provincial Offences Act*.

R.S.O. 1980,
c. 400

Certificate of
appointment

(3) The production by an inspector of a certificate of his appointment purporting to be signed by the Minister is admissible in evidence as *prima facie* proof of his appointment

without further proof of the signature or authority of the Minister. 1972, c. 38, s. 12.

12. No person shall hinder or obstruct an inspector in the ^{Obstruction} course of his duties or furnish him with false information or refuse to furnish him with information. 1972, c. 38, s. 13.

13. Every person who contravenes any of the provisions of ^{Offence} this Act or the regulations is guilty of an offence and on conviction is liable for a first offence to a fine of not more than \$25 and for a subsequent offence to a fine of not more than \$100. 1972, c. 38, s. 14.

14. The Lieutenant Governor in Council may make regula- ^{Regulations} tions,

- (a) providing for the manner of issuing licences and prescribing their duration, the fees payable therefor and the terms and conditions on which they are issued;
- (b) prescribing grounds for refusal to renew, suspension or revocation of licences in addition to the grounds mentioned in section 5;
- (c) establishing classes of machine operators and prescribing the qualifications for each class and the duties that may be performed by each class;
- (d) providing for courses of instruction and examinations and requiring licence holders or applicants for a licence under this Act to attend such courses and pass such examinations;
- (e) prescribing the facilities and equipment to be provided by persons engaged in the business of installing drainage works;
- (f) prescribing standards and procedures for the installation of drainage works;
- (g) prescribing performance standards for machines used in installing drainage works;
- (h) prescribing forms and providing for their use;
- (i) respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act. 1972, c. 38, s. 15.

CHAPTER 16

Airports Act

1. In this Act,Interpre-
tation

(a) "Minister" means the Minister of Transportation and Communications;

(b) "municipality" includes a metropolitan municipality.
R.S.O. 1970, c. 17, s. 1; 1977, c. 33, s. 1.

2.—(1) The Crown in right of Ontario, represented by the Minister, may enter into agreements with the Government of Canada, any municipality, corporation or individual, or any one or more of them, with respect to any matter in relation to the acquisition, establishment, extension, improvement, construction, operation or maintenance of airports to serve any one or more areas in Ontario, and the Minister may provide funds to the municipality, corporation or individual for such purposes. 1977, c. 33, s. 2; 1979, c. 9, s. 1.

Authoriza-
tion for
agreements
and
provision
of funds

(2) Any municipality may enter into agreements under subsection (1). R.S.O. 1970, c. 17, s. 2 (2).

Municipalities
authorized
to enter into
agreements

3.—(1) The Minister may acquire, establish, construct, operate and maintain airports and landing grounds to serve any one or more areas in Ontario.

Power of
Minister to
establish
airports

(2) The Minister may set apart any part of an airport or landing ground which is under his jurisdiction and control, or any building, premises or structure thereon, or any part thereof, for a limited use and may lease the same at such rental and upon such terms and conditions as he considers proper.

Leasing of
airport
facilities

(3) A lease under subsection (2) for a term of twenty-one years or longer is subject to the approval of the Lieutenant Governor in Council. 1977, c. 33, s. 4.

Idem

4. The moneys required for the purposes of this Act shall be paid out of the moneys appropriated therefor by the Legislature. R.S.O. 1970, c. 17, s. 5.

Moneys

CHAPTER 17

Alcoholism and Drug Addiction
Research Foundation Act**1.** In this Act,Interpre-
tation

- (a) "addict" means a person who is addicted to a substance other than alcohol;
- (b) "addiction" means addiction to a substance other than alcohol;
- (c) "alcoholic" means a person who suffers from alcoholism;
- (d) "alcoholism" means a diseased condition produced by the action of alcohol upon the human system;
- (e) "Board" means the professional advisory board of the Foundation;
- (f) "Foundation" means the Alcoholism and Drug Addiction Research Foundation;
- (g) "Minister" means the Minister of Health. R.S.O. 1970, c. 18, s. 1.

2.—(1) The corporation known as the Alcoholism and Drug Addiction Research Foundation is continued. ^{Foundation continued}

(2) The Foundation shall be composed of not fewer than seven and not more than twenty members appointed by the Lieutenant Governor in Council. R.S.O. 1970, c. 18, s. 2. ^{Composition}

3. The Lieutenant Governor in Council may designate one of the members to be chairman of the Foundation. R.S.O. 1970, c. 18, s. 3. ^{Chairman}

4. Five members of the Foundation constitute a quorum. R.S.O. 1970, c. 18, s. 4. ^{Quorum}

5. The Lieutenant Governor in Council may fill any vacancy among the members of the Foundation. R.S.O. 1970, c. 18, s. 5. ^{Vacancies}

Head office

6. The head office of the Foundation shall be at or near the City of Toronto. R.S.O. 1970, c. 18, s. 6.

Objects and powers

- 7.** The objects of the Foundation are and it has power,
- (a) to conduct and promote a program of research in alcoholism and addiction; and
 - (b) to conduct, direct and promote programs for,
 - (i) the treatment of alcoholics and addicts,
 - (ii) the rehabilitation of alcoholics and addicts,
 - (iii) the experimentation in methods of treating and rehabilitating alcoholics and addicts, and
 - (iv) the dissemination of information respecting the recognition, prevention and treatment of alcoholism and addiction. R.S.O. 1970, c. 18, s. 7.

Further powers

8.—(1) For the furtherance of its objects, the Foundation may,

- (a) establish, conduct, manage and operate hospitals, clinics and centres for the observation and treatment of and for consultation with alcoholics and addicts; and
- (b) enter into agreements,
 - (i) with hospitals and other institutions for the accommodation, care and treatment of alcoholics and addicts, and
 - (ii) with universities, hospitals and other institutions for the experimentation in methods of treatment of alcoholics and addicts.

Grants

(2) The Foundation may make such grants as are considered by the Foundation necessary or desirable for the furtherance of its objects. R.S.O. 1970, c. 18, s. 8.

By-laws

9. The Foundation may make such by-laws as are considered expedient for its constitution and the administration of its affairs, and may do such other things as are considered necessary or advisable to carry out its objects. R.S.O. 1970, c. 18, s. 9.

10. The Foundation may acquire by purchase or lease ^{Acquisition of land} any land and buildings, and may erect buildings, and may acquire such equipment, instruments, appliances, materials and other things as are considered necessary or advisable to carry out its objects. R.S.O. 1970, c. 18, s. 10.

11. The real and personal property, business and income ^{Exemption from taxation} of the Foundation are exempt from all assessment and taxation made, imposed or levied by or under the authority of any Act of the Legislature. R.S.O. 1970, c. 18, s. 11.

12. There shall be a professional advisory board composed ^{Board} of such legally qualified medical practitioners, scientists and other persons as the Foundation, with the approval of the Lieutenant Governor in Council, may appoint. R.S.O. 1970, c. 18, s. 12.

13.—(1) The Foundation may employ a director and such ^{Officers and staff} officers, clerks and servants as are considered expedient.

(2) The Foundation may engage the services of such experts ^{Experts} and other persons as are considered expedient. R.S.O. 1970, c. 18, s. 13.

14.—(1) Each member of the Foundation and the Board ^{Expenses} shall be paid his proper travelling and other expenses incurred in the work of the Foundation.

(2) Subject to the approval of the Lieutenant Governor ^{Remuneration of Board} in Council, the members of the Board shall be paid such remuneration as the Foundation determines from time to time. R.S.O. 1970, c. 18, s. 14.

15. The funds of the Foundation consist of moneys re- ^{Funds} ceived by it from any source, including moneys appropriated for its use by the Legislature, and the Foundation may disburse, expend or otherwise deal with any of its funds in such manner as it considers proper. R.S.O. 1970, c. 18, s. 15.

16. The accounts and financial transactions of the Foun- ^{Audit} dation shall be audited annually by the Provincial Auditor, who shall make a report thereon to the Foundation and to the Minister, and the cost of the audit and report shall be paid out of the funds of the Foundation. R.S.O. 1970, c. 18, s. 16.

17. The Foundation shall make a report annually to the ^{Annual report} Minister, who shall submit the report to the Lieutenant Governor in Council and shall then lay the report before the Assembly if it is in session or, if not, at the next ensuing session. R.S.O. 1970, c. 18, s. 17.

CHAPTER 18

Algonquin Forestry Authority Act

1. In this Act,

Interpre-
tation

- (a) "Algonquin Provincial Park" means Algonquin Provincial Park as set apart from time to time under the *Provincial Parks Act*; R.S.O. 1980, c. 401
- (b) "Authority" means the Algonquin Forestry Authority incorporated by this Act;
- (c) "Board" means the Board of Directors of the Authority;
- (d) "Crown timber" has the same meaning as in the *Crown Timber Act*; R.S.O. 1980, c. 109
- (e) "Minister" means the Minister of Natural Resources;
- (f) "Treasurer of Ontario" means the Treasurer of Ontario and Minister of Economics. 1974, c. 99, s. 1.

2. The Minister is responsible for the administration of this Act. 1974, c. 99, s. 2. Administration of Act

3.—(1) There is hereby established on behalf of Her Majesty in right of Ontario a corporation without share capital under the name of Algonquin Forestry Authority consisting of not fewer than five and not more than twelve members appointed by the Lieutenant Governor in Council to hold office during pleasure. Incorporation

(2) The Authority is an agent of Her Majesty in right of Ontario and is a Crown agency for the purposes of the *Crown Agency Act*. Crown agency R.S.O. 1980, c. 106

(3) The *Corporations Act* does not apply to the Authority. 1974, c. 99, s. 3. R.S.O. 1980, c. 95 not to apply

4.—(1) The members for the time being of the Authority form and are its Board of Directors, and the Lieutenant Governor in Council shall designate one of them as chairman and one of them as vice-chairman of the Board. Board of Directors

- Remuneration** (2) The Authority may pay its directors such remuneration and expense allowance as may from time to time be fixed by the Lieutenant Governor in Council.
- Management** (3) Subject to subsection 9 (4), the affairs of the Authority are under the management and control of the Board and the chairman, subject to subsection (4), shall preside at all meetings of the Board.
- Acting chairman** (4) In the case of the absence or illness of the chairman or of there being a vacancy in the office of chairman, the vice-chairman shall act as chairman and shall have all the powers and shall perform all the duties of the chairman.
- Quorum** (5) A majority of the directors constitutes a quorum of the Board.
- (6) The Board may make by-laws regulating its proceedings and generally for the conduct and management of the affairs of the Authority.
- Seal** (7) The Authority shall have a seal which shall be adopted by by-law. 1974, c. 99, s. 4.
- General manager** 5. The Lieutenant Governor in Council shall appoint a person to be the general manager of the Authority who shall be subject to the control and direction of the Board and who shall be paid by the Authority such remuneration and expense allowance as may be fixed by the Lieutenant Governor in Council. 1974, c. 99, s. 5.
- Officers and employees** 6.—(1) The Authority may, subject to the approval of the Lieutenant Governor in Council, establish job classifications, personnel qualifications, duties, powers and salary ranges for its officers and employees and may appoint, employ and promote its officers and employees in conformity with the classifications, qualifications and salary ranges so approved and may dismiss its officers and employees for just cause.
- Superannuation** (2) The *Public Service Superannuation Act* applies to the permanent and full-time probationary staff of the Authority.
R.S.O. 1980, c. 419
- Attendance and vacation credits** (3) Where the Authority employs a person heretofore employed as a civil servant within the meaning of the *Public Service Act*, any attendance credits or vacation credits standing to the credit of such person as a civil servant shall continue to the credit of such person as an officer or employee of the Authority. 1974, c. 99, s. 6.
R.S.O. 1980, c. 418

7. Subject to the approval of the Lieutenant Governor in Council, the Authority may engage persons other than those appointed or employed pursuant to section 6 to provide professional, technical or other assistance to or on behalf of the Authority, and may prescribe the terms of engagement and provide for payment of the remuneration and expenses of such persons. 1974, c. 99, s. 7. Professional and other assistance

8. No director, officer or employee of the Authority, or other person acting on behalf of the Authority, is personally liable for any act done in good faith in the exercise or intended exercise of any of his duties or powers or for any default or neglect in good faith in the exercise of any of his duties or powers. 1974, c. 99, s. 8. Limitation of liability

9.—(1) Subject to subsection (2), the objects of the Authority are, Objects

(a) subject to the *Crown Timber Act*, to harvest Crown timber and produce logs therefrom and to sort, sell, supply and deliver the logs; R.S.O. 1980, c. 109

(b) to perform, undertake and carry out such forestry, land management and other programs and projects as the Minister may authorize and to advise the Minister on forestry and land management programs and projects of general advantage to Ontario.

(2) The Authority shall carry out its objects in Algonquin Provincial Park and in respect of Crown timber on such lands adjacent thereto as may be designated by the Lieutenant Governor in Council. Jurisdiction

(3) Subject to the *Public Lands Act*, the Authority may acquire and hold public lands or any interest therein for its actual use and occupation. Use of public lands
R.S.O. 1980, c. 413

(4) The Authority is responsible to and subject to the direction and control of the Minister and, without limiting the generality of the foregoing, the Minister may determine for the Authority, Objectives

(a) production and operational objectives aimed at regulating the flow of logs;

(b) social objectives aimed at maintaining or improving employment levels in the forest industry; and

- (c) financial, commercial and economic objectives aimed at ensuring reasonable prices for logs produced by or on behalf of the Authority and ensuring a reasonable rate of return on the capital invested in the Authority. 1974, c. 99, s. 9.

Capacity of
a natural
person and
power to
act outside
Ontario

10.—(1) The Authority has all the capacity and powers of a natural person, including the capacity to exercise its powers beyond the boundaries of Ontario to the extent to which the laws in force where the powers are sought to be exercised permit, and may accept extra-provincial powers and rights.

Dealings
with
Authority

(2) No act of the Authority and no transfer of real or personal property to or by the Authority is invalid by reason of the fact that the Authority was without capacity or power to do such act or make or receive such transfer. 1974, c. 99, s. 10.

Master
plan

11.—(1) The Minister shall prepare a master plan that balances the public interest in maintaining and improving the quality of Algonquin Provincial Park for the purpose of recreation and the public interest in providing a flow of logs from Algonquin Provincial Park.

Amendment

(2) The Minister may amend the master plan and shall provide a copy of it and every amendment to the Authority.

Quality of
operations

(3) The Authority shall conduct its operations in conformity and harmony with the provisions and true intent and spirit of the master plan and all amendments thereof, and shall ensure that such operations are conducted, so far as it is practicable so to do, with full regard at all times for the aesthetics, ecology and all other qualities of the environment. 1974, c. 99, s. 11.

Grants and
loans

12.—(1) The Lieutenant Governor in Council may authorize the Minister to make grants and loans to the Authority at such times and upon such terms as the Lieutenant Governor in Council considers advisable.

Statutory
appropriation

(2) The money required for the purposes of subsection (1) shall be paid out of the Consolidated Revenue Fund. 1974, c. 99, s. 12.

Application
of property
and moneys

13.—(1) Subject to subsection (2) and section 14, the property and moneys of the Authority shall be applied solely to promote the objects of the Authority.

(2) The Authority may temporarily invest any surplus ^{Investment of surplus moneys} moneys not immediately required for its objects in any securities issued by or guaranteed as to principal and interest by the Province of Ontario, by any other province of Canada, or by Canada.

(3) The Authority may, with the approval of the Minister, ^{Bank accounts} maintain in its name one or more accounts in any chartered bank or trust company. 1974, c. 99, s. 13.

14. The Authority, upon the order of the Lieutenant Governor in Council, shall pay to the Treasurer of Ontario so much of the moneys of the Authority as the Lieutenant Governor in Council considers in excess of the moneys required for the objects of the Authority, and any moneys so paid may be applied by the Treasurer of Ontario towards the discharge of any obligation of the Authority to Her Majesty in right of Ontario, and if not so applied shall form part of the Consolidated Revenue Fund. 1974, c. 99, s. 14. ^{Disposition of excess moneys}

15. Unless otherwise ordered by the Lieutenant Governor ^{Fiscal year} in Council, the fiscal year of the Authority commences on the 1st day of April in each year and ends with the 31st day of March in the following year. 1974, c. 99, s. 15.

16.—(1) The Authority shall establish and maintain an ^{Accounting system} accounting system satisfactory to the Minister.

(2) The Minister may direct the Authority to prepare ^{Submission of information and data to Minister} and submit to the Minister, in such form and at such time as the Minister directs, forecasts, estimates and analyses of revenues, expenditures, commitments and any other data and information pertaining to any aspect of the affairs of the Authority. 1974, c. 99, s. 16.

17. The Authority shall, within three months after the ^{Annual report} termination of each fiscal year, submit an annual report to the Minister in such form as he may direct, which shall include,

(a) a description of its operation for the fiscal year;

(b) an audited financial statement, including a balance sheet, a statement of income and expense and a statement of surplus or deficit for the fiscal year; and

- (c) such other information in respect of the affairs of the Authority as the Minister may require,

and the Minister shall submit the report to the Lieutenant Governor in Council and shall then lay the report before the Assembly if it is in session or, if not, at the next ensuing session. 1974, c. 99, s. 17.

Audit

18. The accounts and financial transactions of the Authority shall be audited annually by the Provincial Auditor, and a report of the audit shall be made to the Minister and the Authority in which the Provincial Auditor shall,

- (a) express an opinion on the financial statements of the Authority; and
- (b) include any matters that he considers should be brought to the attention of the Minister and the Authority. 1974, c. 99, s. 18.

Termination of Crown timber licences

R.S.O. 1980,
c. 109

19.—(1) Notwithstanding anything in any general or special Act or in any regulation, licence, management plan or operating plan and, subject to subsection (2), the Lieutenant Governor in Council shall by order in council terminate any licence heretofore granted under the *Crown Timber Act*, the licensed area of which is wholly or partly within Algonquin Provincial Park.

60 day
notice of
termina-
tion

(2) Every order in council made pursuant to subsection (1) shall provide that each licence referred to in the order in council is terminated as of the sixtieth day next following the date of the order in council.

Service
of order
in council
terminating
Crown
timber
licences

(3) The Minister shall forward by registered mail a copy of every order in council made pursuant to subsection (1) to the licensee of each licence referred to in the order in council, addressed to the last place of business of the licensee as shown in the records in the Ministry of Natural Resources.

Termination
of cutting
approval

(4) Upon the termination of a licence pursuant to subsection (1), each approval issued pursuant to subsection 14 (1) of the *Crown Timber Act* in respect of the licence shall thereafter be null and void.

Continuation
of liability
for Crown
charges

(5) The licensee of a licence terminated under subsection (1) shall continue to be liable for all indebtedness in respect of Crown charges as defined in the *Crown Timber Act* in respect of the licence. 1974, c. 99, s. 19.

CHAPTER 19

Aliens' Real Property Act

1. Every alien has the same capacity to take by gift, conveyance, descent, devise, or otherwise, and to hold, possess, enjoy, claim, recover, convey, devise, impart and transmit real estate in Ontario as a natural born or a naturalized subject of Her Majesty. R.S.O. 1970, c. 19, s. 1.

2. The real estate in Ontario of an alien dying intestate descends and may be transmitted as if it had been the real estate of a natural born or a naturalized subject of Her Majesty. R.S.O. 1970, c. 19, s. 2.

CHAPTER 20

Ambulance Act

1. In this Act,

Interpre-
tation

- (a) “ambulance” means a conveyance used or intended to be used in an ambulance service for the transportation of persons requiring medical attention or under medical care;
- (b) “ambulance service” means a service held out to the public as available for the conveyance of persons requiring medical attention or under medical care, and includes the service of dispatching ambulances;
- (c) “Board” means the Health Facilities Appeal Board;
- (d) “Director” means the Director of the Ambulance Services Branch;
- (e) “Minister” means the Minister of Health;
- (f) “Ministry” means the Ministry of Health;
- (g) “municipality” includes a metropolitan or regional municipality but does not include an area municipality thereof;
- (h) “operator” means a person or corporation that owns or provides an ambulance service and “operate” has a corresponding meaning;
- (i) “regulations” means the regulations made under this Act;
- (j) “resident” means a person who was actually residing and physically present in a municipality for a period of three months within the preceding six months. R.S.O. 1970, c. 20, s. 1; 1972, c. 93, s. 1; 1975, c. 84, s. 1.

2. The Minister is responsible for the administration and enforcement of this Act. R.S.O. 1970, c. 20, s. 2; 1972, c. 93, s. 2.

Administra-
tion of Act

**Municipal
ambulance
service**

3.—(1) Subject to section 8, the council of a municipality may pass by-laws for acquiring, maintaining and operating an ambulance service. R.S.O. 1970, c. 20, s. 3 (1).

Agreements

(2) The Minister and the council of a municipality or board of health of a health unit may enter into agreements in respect of the acquisition, maintenance and operation of an ambulance service. R.S.O. 1970, c. 20, s. 3 (2); 1972, c. 93, s. 3.

**Functions of
Minister**

4.—(1) It is the duty of the Minister and he has power,

- (a) to ensure the development throughout Ontario of a balanced and integrated system of ambulance services and of effectual ambulance communications facilities;
- (b) to require hospitals to establish, maintain and operate ambulance services and intercommunication respecting ambulance services;
- (c) to establish, maintain and operate, alone or in co-operation with others, ambulance services, intercommunication systems in connection with ambulance services and storage depots for the equipment and supply of ambulances;
- (d) to establish and operate, alone or in co-operation with one or more organizations, institutes and centres for the training of personnel for ambulance services;
- (e) to receive and disburse all moneys appropriated by the Legislature for the purposes of this Act and all moneys payable to the Ministry under this Act;
- (f) to determine the amounts to be paid by the Minister and to pay operators for ambulance services provided and to make retroactive adjustments for underpayment and overpayment for such services according to the cost thereof;
- (g) to establish regions and districts for the purposes of ambulance services and the communications facilities therefor. R.S.O. 1970, c. 20, s. 4 (1); 1972, c. 93, s. 4 (1-3).

**Application
of
R.S.O. 1980,
c. 446**

(2) The *Regulations Act* does not apply to anything done by the Minister under subsection (1). R.S.O. 1970, c. 20, s. 4 (2); 1972, c. 93, s. 4 (4).

5.—(1) Upon the request of the council of a municipality, the Minister may, where he considers to do so would provide an improved ambulance service to the public, by order designate the council of the municipality as the sole authority to operate an ambulance service in that municipality.

(2) Where the Minister makes an order under subsection (1),

(a) any person operating an ambulance service in the municipality named in the order, other than the council of the municipality, shall cease operation on or before the day set out in the order; and

(b) the municipality shall pay to any person required to cease operating an ambulance service as a result of the order such sum of money by way of compensation for the value of the ambulance service to the operator as is consistent with the principles of law and equity.

(3) The licence of a person who is required to cease operating an ambulance service as a result of an order of the Minister made under subsection (1) shall be deemed to have been cancelled on the day set out in the order and the provisions of sections 14, 15 and 16 do not apply to such cancellation.

(4) The Director shall not issue a licence to operate an ambulance service in a municipality named in an order made under subsection (1) to any applicant other than the council of the municipality, and the provisions of sections 14, 15 and 16 do not apply to any such refusal to issue a licence.

(5) The Minister may rescind any order made under subsection (1) and where the Minister does so subsection (4) ceases to have effect in respect of the municipality.

(6) The *Regulations Act* does not apply to an order of the Minister made under subsection (1). 1975, c. 84, s. 2, *part*.

6.—(1) Where agreement cannot be reached as to the sum of money to be paid by the municipality under clause 5 (2) (b), either the municipality or the operator of the ambulance service may serve upon the other notice that the municipality or the operator, as the case may be, desires that the amount of compensation be determined by arbitration under the *Arbitrations Act* and each party shall, within seven days of the service of the notice appoint a member of a board of arbitration, and a third member who shall be chairman shall be appointed within a further seven days by the two members so appointed.

Application
of
R.S.O. 1980,
c. 25

(2) Where a board of arbitration is appointed under subsection (1), the provisions of the *Arbitrations Act* apply as though a submission had been made under that Act. 1975, c. 84, s. 2, *part.*

Minister
to approve
applications
for incor-
poration

7. No application to incorporate a corporation whose objects include the operation of an ambulance service shall be proceeded with until it has first received the approval of the Minister. R.S.O. 1970, c. 20, s. 5; 1972, c. 93, s. 5.

Operator's
licence

8. No person shall operate an ambulance service except under the authority of a licence issued by the Director and the Director may issue a licence upon such terms and subject to such conditions as are specified in the licence or the regulations. R.S.O. 1970, c. 20, s. 6.

Temporary
licence

9. The Director may issue a temporary licence in accordance with the regulations to operate a specified conveyance as an ambulance for a definite period of time stated in the licence. R.S.O. 1970, c. 20, s. 7.

Health
Facilities
Appeal
Board

10.—(1) The Health Facilities Appeal Board is continued and shall be composed of five members appointed by the Lieutenant Governor in Council, one of whom shall be designated by the Lieutenant Governor in Council as chairman of the Board.

Quorum

(2) Three members of the Board constitute a quorum and are sufficient for the exercise of all the jurisdiction and powers of the Board.

Members

(3) No employee of the Government of Ontario or of any agency of the Crown shall be appointed a member of the Board.

Remunera-
tion

(4) The members of the Board shall be paid such remuneration for their services as the Lieutenant Governor in Council determines. 1972, c. 93, s. 6.

Grounds
for refusal
to issue

11. Subject to section 14, the Director may refuse to issue a licence,

(a) where the proposed operation would be in contravention of this Act or the regulations;

(b) where there is no public need for the ambulance service to be operated pursuant to the licence in the area where the applicant proposes to operate;

- (c) where the applicant is not competent to operate or financially capable of operating the ambulance service reliably; or
- (d) the past conduct of the applicant or, where the applicant is a corporation, of its officers or directors, affords reasonable grounds for belief that the ambulance service will not be operated in accordance with law and with honesty and integrity. R.S.O. 1970, c. 20, s. 8; 1971, c. 50, s. 5 (1, 2).

12. Subject to section 14, the Director may revoke, suspend or refuse to renew a licence for any reason for which he may refuse to issue the licence if the licensee were an applicant or where the licensee has contravened this Act or the regulations or is in breach of a condition of his licence. R.S.O. 1970, c. 20, s. 9; 1971, c. 50, s. 5 (3).

13.—(1) Where the Director issues a licence under this Act and the licensee is dissatisfied with the terms and conditions thereof prescribed by the Director, the licensee may by written notice given to the Director and the Board require a hearing by the Board and the Board shall appoint a time for and hold a hearing. 1971, c. 50, s. 5 (4), *part*; 1972, c. 93, s. 7 (1).

(2) Following upon a hearing under subsection (1), the Board may affirm the terms and conditions prescribed for the licence by the Director or may cancel such terms and conditions or may prescribe such other terms and conditions for the licence in the place of those prescribed by the Director as it considers proper and such terms and conditions shall be terms and conditions of the licence. 1971, c. 50, s. 5 (4), *part*; 1972, c. 93, s. 7 (2).

14.—(1) Where the Director proposes to refuse to issue or renew a licence or proposes to revoke or suspend a licence, he shall serve notice of his proposal, together with written reasons therefor, on the applicant or licensee. 1971, c. 50, s. 5 (5), *part*.

(2) A notice under subsection (1) shall inform the applicant or licensee that he is entitled to a hearing by the Board if he mails or delivers, within fifteen days after the notice under subsection (1) is served on him, notice in writing requiring a hearing to the Director and the Board, and he may so require such a hearing. 1971, c. 50, s. 5 (5), *part*; 1972, c. 93, s. 8 (1).

(3) Where an applicant or licensee does not require a hearing by the Board in accordance with subsection (2), the Director may carry out the proposal stated in his notice under subsection (1). 1971, c. 50, s. 5 (5), *part*; 1972, c. 93, s. 8 (2).

Powers of
Board
where
hearing

(4) Where an applicant or licensee requires a hearing by the Board in accordance with subsection (2), the Board shall appoint a time for and hold the hearing and, on the application of the Director at the hearing, may by order direct the Director to carry out his proposal or refrain from carrying out his proposal and to take such action as the Board considers the Director ought to take in accordance with this Act and the regulations, and for such purpose the Board may substitute its opinion for that of the Director. 1971, c. 50, s. 5 (5), *part*; 1972, c. 93, s. 8 (3).

Terms and
conditions

(5) The Board may attach such terms and conditions to its order or to the licence as it considers proper to give effect to the purposes of this Act. 1971, c. 50, s. 5 (5), *part*; 1972, c. 93, s. 8 (4).

Extension of
time for
appeal

(6) The Board may extend the time for the giving of notice requiring a hearing by an applicant or licensee under this section either before or after expiration of such time where it is satisfied that there are *prima facie* grounds for granting relief to the applicant or licensee pursuant to a hearing and that there are reasonable grounds for applying for the extension, and the Board may give such directions as it considers proper consequent upon the extension. 1971, c. 50, s. 5 (5), *part*; 1972, c. 93, s. 8 (5).

Continuation
of licence
pending
renewal

(7) Where, within the time prescribed therefor or, if no time is prescribed, before expiry of his licence, a licensee has applied for renewal of his licence and paid the prescribed fee, his licence shall be deemed to continue,

(a) until the renewal is granted; or

(b) where he is served with notice that the Director proposes to refuse to grant the renewal, until the time for giving notice requiring a hearing by the Board has expired and, where a hearing is required, until the Board has made its decision. 1971, c. 50, s. 5 (5), *part*; 1972, c. 93, s. 8 (6).

Parties

15.—(1) The Director, the applicant or licensee who has required the hearing and such other persons as are specified by the Board are parties to proceedings before the Board under this Act. 1971, c. 50, s. 5 (5), *part*; 1972, c. 93, s. 9 (1).

Notice of
hearing

(2) Notice of a hearing under section 14 shall afford the applicant or licensee a reasonable opportunity to show or to achieve compliance before the hearing with all lawful requirements for the issue or retention of the licence.

(3) An applicant or licensee who is a party to proceedings under section 14 shall be afforded an opportunity to examine before the hearing any written or documentary evidence that will be produced or any report the contents of which will be given in evidence at the hearing. 1971, c. 50, s. 5 (5), *part*.

Examination
of docu-
mentary
evidence

(4) Members of the Board holding a hearing shall not have taken part in any investigation or consideration of the subject-matter of the hearing before the hearing and shall not communicate directly or indirectly in relation to the subject-matter of the hearing with any person or with any party or his representative except upon notice to and opportunity for all parties to participate, but the Board may seek legal advice from an adviser independent from the parties and in such case the nature of the advice should be made known to the parties in order that they may make submissions as to the law. 1971, c. 50, s. 5 (5), *part*; 1972, c. 93, s. 9 (2).

Members
holding
hearing
not to have
taken
part in
investigation,
etc.

(5) The oral evidence taken before the Board at a hearing shall be recorded and, if so required, copies or a transcript thereof shall be furnished upon the same terms as in the Supreme Court. 1971, c. 50, s. 5 (5), *part*; 1972, c. 93, s. 9 (3).

Recording
of evidence

(6) The findings of fact of the Board pursuant to a hearing shall be based exclusively on evidence admissible or matters that may be noticed under sections 15 and 16 of the *Statutory Powers Procedure Act*. 1971, c. 50, s. 5 (5), *part*; 1972, c. 93, s. 9 (4).

Findings
of fact

R.S.O. 1980,
c. 484

(7) No member of the Board shall participate in a decision of the Board following upon a hearing unless he was present throughout the hearing and heard the evidence and argument of the parties and, except with the consent of the parties, no decision of the Board shall be given unless all members so present participate in the decision. 1971, c. 50, s. 5 (5), *part*; 1972, c. 93, s. 9 (5).

Only
members at
hearing to
participate
in decision

16.—(1) Upon the request of any party to the hearing before the Board, made within fifteen days after being served with a decision, the Minister shall review the record and the decision of the Board and the reasons therefor, and the Minister may confirm or alter the decision of the Director or direct the Director to do any act the Director is authorized to do under this Act and as the Minister considers proper, and the decision of the Minister is final on all matters except points of law. R.S.O. 1970, c. 20, s. 16 (1); 1971, c. 50, s. 5 (6); 1972, c. 93, s. 10 (1).

Review by
Minister

Reasons

(2) The Minister shall give the reasons for his decision under subsection (1) to each of the parties to the hearing before the Board within thirty days after he receives the request for the review. R.S.O. 1970, c. 20, s. 16 (2); 1972, c. 93, s. 10 (2).

Appeal to court

(3) Any person requesting a review under subsection (1) may appeal the Minister's decision on any point of law to the Divisional Court in accordance with the rules of court. 1971, c. 50, s. 5 (7).

Service of notices

17. Except where otherwise provided, any notice required by this Act to be served shall be served personally or by registered mail addressed to the person to whom notice is to be given at his last known address and, where notice is served by registered mail, the service shall be deemed to have been made on the third day after the day of mailing unless the person to whom notice is given establishes that he did not, acting in good faith, through absence, accident, illness or other cause beyond his control receive the notice until a later date. 1971, c. 50, s. 5 (8).

Appointment of inspectors

18.—(1) The Minister may appoint inspectors for the purposes of this Act and the regulations and such appointments shall be in writing. R.S.O. 1970, c. 20, s. 18 (1); 1972, c. 93, s. 11.

Powers of inspectors

(2) An inspector, upon the production of his appointment under subsection (1), may enter the business premises or conveyances of an operator at any time and may examine, extract information from and make copies of his books, accounts and records pertaining to the ambulance service and may inspect the conveyances, supplies and equipment for the purpose of determining their compliance with the regulations. R.S.O. 1970, c. 20, s. 18 (2); 1971, c. 50, s. 5 (9); 1975, c. 84, s. 3.

Confidential matters

(3) Each person employed in the administration of this Act, including any person making an inquiry, inspection or an investigation under this section shall preserve secrecy with respect to all matters that come to his knowledge in the course of his duties, employment, inquiry, inspection or investigation and shall not communicate any such matters to any other person except,

(a) as may be required in connection with the administration of this Act and the regulations or any proceedings under this Act or the regulations; or

(b) to his counsel; or

- (c) with the consent of the person to whom the information relates. 1971, c. 50, s. 5 (10).

19. Where a licensee is a corporation, the licensee shall notify the Director within fifteen days of any change in the officers or directors of the corporation. R.S.O. 1970, c. 20, s. 19.

Notice of
change in
corporate
manage-
ment

20. Every licence, except a temporary licence, expires one year after it is issued. R.S.O. 1970, c. 20, s. 20.

Expiration
of licences

21. Where a patient in a hospital is a person who is receiving general assistance from a municipality under the *General Welfare Assistance Act* or is the dependant of any such person and is transported to or from the hospital in an ambulance, the municipality is also liable for and shall pay to the hospital that person's share of the ambulance service operator's fee as prescribed by the regulations. 1972, c. 93, s. 12.

Payment of
co-payment
by municipi-
pality
R.S.O. 1980,
c. 188

22.—(1) Subject to the approval of the Lieutenant Governor in Council, the Minister may make regulations,

Regulations

- (a) prescribing the standards of conveyances and equipment for ambulance services and of their maintenance and repair and requiring the approval of the Director for the acquisition of such conveyances and equipment as are specified in the regulations;
- (b) governing the management, operation and use of ambulance services, including insurance against liability in connection with their operation;
- (c) prescribing the records, books, audits and accounting system to be kept, made or followed by operators and the returns, reports and information to be submitted to the Director or the Minister;
- (d) prescribing the qualifications for persons employed in ambulance services including their testing and examination, physical or otherwise;
- (e) providing for the issuing of licences and prescribing terms and conditions of licences;
- (f) requiring the payment of fees in connection with licences and applications therefor and prescribing the amounts thereof;

(g) prescribing the fees that may be charged by the operators of each class of ambulance service for each kind of service provided, the methods and times of payment of such fees to the operators and the proportion thereof that may be charged to the person transported in an ambulance. R.S.O. 1970, c. 20, s. 22 (1); 1972, c. 93, s. 13.

Limited
application

(2) The regulations may provide that any provision is limited in its application to any specified class of ambulance service, person or thing. R.S.O. 1970, c. 20, s. 22 (2).

Penalty

23.—(1) Subject to subsection (2), any person who contravenes this Act or the regulations is guilty of an offence and on conviction is liable to a fine of not more than \$1,000.

Corporations

(2) Where a corporation is convicted of an offence under subsection (1), the maximum penalty that may be imposed upon the corporation is \$10,000 and not as provided therein.

Penalty

(3) Any person who prevents or obstructs or attempts to prevent or obstruct an inspector from entering premises or making an inspection authorized by this Act or the regulations is guilty of an offence and on conviction is liable to a fine of not more than \$500.

Limitation

(4) No proceeding under this section shall be commenced more than one year after the time when the subject-matter of the proceeding arose. R.S.O. 1970, c. 20, s. 23.

Minister
not vicar-
iously liable

24. The Minister shall not be held to be vicariously liable for the acts or omissions of operators or their employees. R.S.O. 1970, c. 20, s. 24; 1972, c. 93, s. 14.

Limitation
period

25. No action shall be brought against an operator or an employee of an operator for the recovery of damages occasioned by negligence in the provision of ambulance services after the expiration of one year from the time when the damages were sustained. R.S.O. 1970, c. 20, s. 25.

CHAPTER 21

Anatomy Act

1. In this Act,

Interpre-
tation

- (a) "disposition" means any disposition that may be made of a body under the *Cemeteries Act*, and "dispose" has a corresponding meaning; R.S.O. 1980, c. 59
- (b) "general inspector" means the general inspector of anatomy;
- (c) "local inspector" means a local inspector of anatomy having jurisdiction, and includes the general inspector;
- (d) "private morgue" means a place where bodies are customarily retained before their disposition, other than a public morgue;
- (e) "public morgue" means a place under the control and management of a municipal corporation where bodies are retained before their disposition;
- (f) "regulations" means the regulations made under this Act;
- (g) "school" means an institution designated as a school by the regulations. R.S.O. 1970, c. 21, s. 1.

2.—(1) The Lieutenant Governor in Council may appoint General inspector a general inspector of anatomy who shall perform such duties as are assigned to him by this or any other Act, and may perform any of the duties of a local inspector anywhere in Ontario.

(2) The Lieutenant Governor in Council may appoint Local inspectors persons who are coroners as local inspectors of anatomy for such areas in Ontario as is considered advisable, and each local inspector shall perform such duties as are assigned to him under this or any other Act in the area in his jurisdiction, under the supervision and direction of the general inspector.

(3) When a local inspector ceases to be a coroner, his Termination of office appointment as local inspector is terminated.

Fees

(4) The general inspector and local inspectors are entitled to the fees required to be paid to them under this Act. R.S.O. 1970, c. 21, s. 2.

Notice
to local
inspector,
etc.

R.S.O. 1980,
c. 93

3.—(1) Subject to the *Coroners Act*, the person having possession of the body of a deceased person that,

(a) is unclaimed by a relative or *bona fide* friend within twenty-four hours after the death; and

(b) has not been or will not be used for a purpose authorized under the *Human Tissue Gift Act*,

R.S.O. 1980,
c. 210

shall notify the local inspector and shall furnish the local inspector with such information respecting the deceased person as is within the knowledge of the notifier and as the local inspector may require.

Bodies under
control of
local
inspector

(2) A body of which the local inspector is notified under subsection (1) shall be deemed to be under his control for the purposes of this Act.

Claiming
bodies

(3) A body, while under the control of the local inspector, may be claimed by a relative for disposition or by any other person who gives a *bona fide* undertaking to dispose of the body. R.S.O. 1970, c. 21, s. 3.

Bodies for
anatomical
dissection

4.—(1) Subject to the *Coroners Act*, the local inspector may cause a body under his control to be delivered to a teacher of anatomy or surgery in a school, for the purpose of anatomical dissection.

Idem

(2) No body upon which a *post mortem* examination has been performed shall be delivered to a teacher of anatomy or surgery in a school unless the school is first informed of the *post mortem* examination and consents to accept the body. R.S.O. 1970, c. 21, s. 4.

Claiming
of bodies
after
delivery
to school

5.—(1) A school that receives a body under section 4 shall keep and preserve the body for not fewer than fourteen days, and, if the body is claimed within that time by a person entitled to claim the body under section 3, the school shall deliver the body to such person upon payment of the transportation costs actually incurred by the school, or such part of the costs as the school requires, and shall notify the general inspector of the fact.

Donated
bodies

(2) A school that receives a body for the purpose of anatomical dissection, other than under section 4, shall immediately notify the local inspector and shall not begin a

dissection of the body until the local inspector has certified in writing that he has obtained such particulars of the body as he may require. R.S.O. 1970, c. 21, s. 5.

6. Where doubt exists as to whether a person is entitled to claim a body under section 3 or 5, the person claiming the body may apply to the provincial offences court having jurisdiction in the locality where the body is found for an order (Form 1), and the court may make the order. R.S.O. 1970, c. 21, s. 6, *revised*. Order of provincial offences court

7. A school receiving a body shall dispose of the body at the expense of the school after it has served the purpose for which it was received, but, before disposing of the body, the school shall give notice of the disposition to the general inspector. R.S.O. 1970, c. 21, s. 7. Disposition of bodies by school

8. Every school shall keep such records as are prescribed by the regulations, and the records shall be open at all times to inspection by the general inspector or a local inspector. R.S.O. 1970, c. 21, s. 8. Records by school

9.—(1) The general inspector may inspect the methods and facilities of a school for handling, preserving, storing, dissecting, and disposing of bodies and the parts thereof. Inspection

(2) The general inspector may make such orders in writing as he considers necessary requiring a school to provide and maintain any of the methods and facilities referred to in subsection (1) in accordance with good anatomical practices, and, where an order is not complied with, the general inspector may, in his discretion, suspend delivery of bodies to the school for such periods as he may determine. R.S.O. 1970, c. 21, s. 9. Orders of general inspector

10. Every local inspector shall, Duties of local inspector

(a) keep a register showing,

(i) the name, sex, age, birthplace and last place of residence of every person whose body is under his control or of whose body he has been notified under subsection 5 (2), and

(ii) the name of the school to which the body was delivered and the date of the delivery; and

(b) furnish the general inspector with such information as he requires. R.S.O. 1970, c. 21, s. 10.

Duty of
municipality
to bury

11. Subject to this Act, any unclaimed body found within the limits of a city, town, village or township shall, at the request of the local inspector or, where there is no local inspector appointed under subsection 2 (2), of a coroner, be disposed of at the expense of the corporation, but the corporation may recover the expense thereof from the estate of the deceased or from any person whose duty it was to dispose of the body. R.S.O. 1970, c. 21, s. 11.

Storage in
morgues

12.—(1) A local inspector or, where there is no local inspector, a coroner may order a body to be stored in a public morgue or retained in a private morgue until other arrangements are made.

Security in
morgues

(2) Every person in charge of a public or private morgue shall ensure that bodies in the morgue are secure against unlawful interference. R.S.O. 1970, c. 21, s. 12.

Offence

13.—(1) Every person who contravenes this Act is guilty of an offence and on conviction is liable, if a corporation, to a fine of not more than \$2,000 or, if not a corporation, to a fine of not more than \$1,000 or to imprisonment for a term of not more than one year, or to both.

Liability of
corporation
of which
school a
part

(2) For the purposes of subsection (1), where an institution that is designated as a school for the purposes of this Act is part of a college or university that is a corporation, a duty imposed by this Act on the school shall be deemed to be imposed on the corporation. R.S.O. 1970, c. 21, s. 13.

Regulations

14. The Lieutenant Governor in Council may make regulations,

- (a) designating schools for the purposes of this Act;
- (b) prescribing the records that shall be kept by schools;
- (c) prescribing the duties of the general inspector and the local inspectors in addition to the duties imposed by this Act;
- (d) requiring the payment of fees to the general inspector and local inspectors for services performed under this Act and the regulations, and prescribing the amounts thereof;
- (e) prescribing forms for the purposes of this Act and providing for their use. R.S.O. 1970, c. 21, s. 14.

FORM 1

(Section 6)

Anatomy Act

To whom it may concern:

Whereas *A.B.* of (*here state the residence and occupation of the person by whom or on whose behalf the order is applied for*) has satisfied me that he is a relative (*or is a bona fide friend, or has given a bona fide undertaking to dispose of the body*) of *C.D.*, deceased, and is entitled to have the body delivered to him for the purpose of disposition.

I hereby authorize and order every person and authority having the present custody or control of the body forthwith upon presentation of this order to deliver it to the said *A.B.* for disposition.

Witness my hand as a justice of the Provincial Offences Court of the
.....of,
this day of, 19....

.....

R.S.O. 1970, c. 21, Form 1.

CHAPTER 23

Apportionment Act

1. In this Act,

Interpre-
tation

- (a) "annuities" includes salaries and pensions;
- (b) "dividends" includes all payments made by the name of dividend, bonus or otherwise out of revenues of trading or other public companies divisible between all or any of the members, whether such payments are usually made or declared at any fixed times or otherwise, but does not include payments in the nature of a return or reimbursement of capital;
- (c) "rent" includes rent-service, rent-charge and rent-seck and all periodical payments or renderings in lieu or in the nature of rent. R.S.O. 1970, c. 23, s. 1.

2. Dividends shall, for the purposes of this Act, be deemed to have accrued by equal daily increment during and within the period for or in respect of which the payment of the dividends is declared or expressed to be made. R.S.O. 1970, c. 23, s. 2.

Dividends,
how deemed
to accrue

3. All rents, annuities, dividends, and other periodical payments in the nature of income, whether reserved or made payable under an instrument in writing or otherwise, shall, like interest on money lent, be considered as accruing from day to day, and are apportionable in respect of time accordingly. R.S.O. 1970, c. 23, s. 3.

Rents, etc.,
how to
accrue and
be appor-
tionable

4. The apportioned part of any such rent, annuity, dividend or other periodical payment is payable or recoverable, in the case of a continuing rent, annuity, dividend or other such payment, when the entire portion, of which such apportioned part forms part, becomes due and payable, and not before, and in the case of a rent, annuity or other such payment determined by re-entry, death or otherwise, when the next entire portion of the same would have been payable if it had not so determined, and not before. R.S.O. 1970, c. 23, s. 4.

When ap-
portioned,
part of rent,
etc., to be
payable

5.—(1) All persons and their respective heirs, executors, administrators and assigns, and also the executors, administrators and assigns, respectively, of persons whose interests

Recovering
apportioned
parts

determine with their own deaths, have such or the same remedies for recovering such apportioned parts when payable, allowing proportionate parts of all just allowances, as they respectively would have had for recovering such entire portions if entitled thereto.

As to rents reserved in certain cases

(2) The persons liable to pay rents reserved out of or charged on lands or other hereditaments, and the same lands or other hereditaments, shall not be resorted to for any such apportioned part forming part of an entire or continuing rent specifically, but the entire or continuing rent, including such apportioned part, shall be recovered and received by the heir or other person, who, if the rent had not been apportionable under this Act, or otherwise, would have been entitled to such entire or continuing rent, and such apportioned part is recoverable by action from such heir or other person by the executors or other persons entitled to it under this Act. R.S.O. 1970, c. 23, s. 5.

Policies of assurance, stipulation against apportionment

6. Nothing in this Act renders apportionable any annual sums made payable in policies of assurance of any description, or extends to any case in which it is expressly stipulated that no apportionment is to take place. R.S.O. 1970, c. 23, s. 6.

CHAPTER 24

Apprenticeship and Tradesmen's
Qualification Act

1. In this Act,

Interpre-
tation

- (a) "apprentice" means a person who is at least sixteen years of age and who has entered into a contract under which he is to receive, from or through his employer, training and instruction in a trade;
- (b) "certified trade" means a trade designated as a certified trade under section 11;
- (c) "Director" means the Director of Apprenticeship;
- (d) "employer" includes the Crown and any other public authority, the Ontario Apprenticeship Institute and any local apprenticeship committee;
- (e) "licence" means a licence under this Act and the regulations to operate a trade school and "licensee" means the holder of a licence;
- (f) "Minister" means the Minister of Colleges and Universities;
- (g) "regulations" means the regulations made under this Act. R.S.O. 1970, c. 24, s. 1; 1971, c. 50, s. 7 (1); 1972, c. 1, s. 13 (1).

2.—(1) There shall be appointed a Director of Apprenticeship and such other officers, clerks and servants as are considered expedient for the purposes of this Act.

Director
and staff

(2) Subject to the approval of the Minister, the Director may appoint one or more examiners to assist in the conduct of examinations prescribed for any trade, and such examiners, upon the direction of the Lieutenant Governor in Council, may be paid their travelling expenses and a *per diem* allowance for their services out of such moneys as are appropriated therefor by the Legislature. R.S.O. 1970, c. 24, s. 2.

Examiners

Provincial
advisory
committees,
appointment

3.—(1) The Minister may appoint a provincial advisory committee in any trade or group of trades to advise him in matters relating to the establishment and operation of apprentice training programs and tradesmen's qualifications. R.S.O. 1970, c. 24, s. 3 (1).

composition

(2) Every provincial advisory committee shall consist of not fewer than five members made up of equal numbers of representatives of employers and of employees and the Director or such other officer of the Ministry of Colleges and Universities as may be designated by him. R.S.O. 1970, c. 24, s. 3 (2); 1972, c. 1, s. 13 (2).

term of
office of
appointed
members

(3) The representatives of employers and employees on a provincial advisory committee shall be appointed for terms of one, two or three years, and having served a term shall not be reappointed for at least two years.

vacancies

(4) When a vacancy occurs on a provincial advisory committee during a term of office, the Minister may fill the vacancy for the unexpired portion of the term.

travelling
expenses,
allowances,
etc.

(5) The Lieutenant Governor in Council may direct payment, out of such moneys as are appropriated therefor by the Legislature, of the travelling expenses of the members of provincial advisory committees and a *per diem* allowance for the time spent by such members in attending meetings, and of any expenses properly incurred by such a committee in carrying out its duties. R.S.O. 1970, c. 24, s. 3 (3-5).

Local
apprentice-
ship
committees

4. The Director may appoint local apprenticeship committees composed of such persons as he considers appropriate for any area of Ontario to advise and assist him in matters relating to apprenticeship or tradesmen's qualifications in the area. R.S.O. 1970, c. 24, s. 4.

Agreements
respecting
manpower
training

5. With the approval of the Lieutenant Governor in Council, the Minister may enter into one or more agreements with the Minister of Labour of Canada respecting apprentice or manpower training. R.S.O. 1970, c. 24, s. 5.

Duties of
Director

6. Subject to the supervision and control of the Minister, it is the duty of the Director to administer and enforce this Act, and, without limiting the generality of the foregoing, for the purposes of this Act,

(a) to collaborate with persons and organizations in the determination of training requirements in any trade;

- (b) to undertake or collaborate in studies or investigations of any trade and of the requirements for the supply and training of persons therefor;
- (c) to publicize and promote apprenticeship as a method of training in any trade;
- (d) to plan and carry out programs of apprenticeship in any trade; and
- (e) generally to perform such other duties as are assigned to him by the Minister for the carrying out of this Act. R.S.O. 1970, c. 24, s. 6.

7.—(1) For the purpose of carrying out this Act, the Director, or any person authorized by the Minister in writing, may, ^{Powers of Director}

- (a) inspect, upon production of his authorization under this subsection, the premises, equipment and training facilities of an employer;
- (b) inspect and examine all books, payrolls and other records of an employer that in any way relate to the wages, hours of labour or conditions of employment of any person;
- (c) take extracts from or make copies of any entry in such books, payrolls and records;
- (d) require an employer to make full disclosure and production of all records, documents, statements, writings, books, papers, extracts therefrom or copies thereof that the employer may have in his possession or control, or other information, either oral or in writing and either verified by oath or otherwise, that in any way relate to the wages, hours or labour or conditions of employment of persons employed by him. R.S.O. 1970, c. 24, s. 7 (1); 1971, c. 50, s. 7 (2, 3).

(2) Notwithstanding any of the provisions of this Act or the regulations, the Director may register any person as an apprentice, or grant a certificate of apprenticeship, a certificate of qualification or a certificate of proficiency to any person, who, in the opinion of the Director, is unable by reason of physical incapacity or other circumstances to take or complete the prescribed course of study or training in a trade or apprentice training program. R.S.O. 1970, c. 24, s. 7 (2). ^{Idem, special circumstances}

8.—(1) Subject to subsection (2), the Director, or any person authorized by the Minister in writing, may cancel for ^{Cancellation of contract} cause a contract of apprenticeship.

Notice of
proposal to
cancel,
right to
hearing

(2) Where the Director, or any person authorized under subsection (1), proposes to cancel for cause a contract of apprenticeship under subsection (1), he shall serve notice of his proposal, together with written reasons therefor, on each party to the contract informing him that he has a right to a hearing by a judge if he applies therefor within fifteen days after service of such notice, and a party to the contract may within such time apply for a hearing to the judge of the county or district court of the county or district where the apprentice who is a party to the contract resides.

Powers of
Director
where no
hearing

(3) Where none of the parties to a contract to which a notice under subsection (2) relates applies to a judge for a hearing within fifteen days after service of such notice, the Director or person authorized under subsection (1) may forthwith cancel the contract.

Powers of
judge
where
hearing

(4) Where a party to a contract to which a notice under subsection (2) relates applies to a judge for a hearing within fifteen days after service of such notice, the judge shall appoint a time for and hold a hearing and, on application at the hearing by the Director or person serving the notice, may by order direct the Director or such person to cancel the contract or to refrain from cancelling the contract, as the case may be, and as the judge considers proper in accordance with this Act and the regulations.

Parties

(5) The Director or person serving the notice under subsection (1), the parties to the contract to which the notice relates and such other persons as the judge may specify are parties to proceedings before the judge under this section. 1971, c. 50, s. 7 (4), *part*.

Duty to
register
as an
apprentice

9.—(1) Every person who commences to work at a trade for which an apprentice training program is established but who does not hold a certificate of apprenticeship or qualification in that trade shall,

- (a) forthwith apply in the prescribed form for apprenticeship in that trade; and
- (b) within three months after commencing to work in that trade, file with the Director his contract of apprenticeship.

Idem

(2) Every person who fails to comply with subsection (1) shall, upon the expiration of the period of three months mentioned in clause (1) (b), cease to work in that trade until he files with the Director his contract of apprenticeship or until the Director authorizes in writing the continuation or resumption of such work. R.S.O. 1970, c. 24, s. 8.

10. Where an apprentice training program is established for a trade, every employer in the trade employing any person under twenty-one years of age, Persons under 21

- (a) who is not an apprentice in that trade; or
- (b) who does not hold a certificate of apprenticeship or qualification in that trade,

shall immediately notify the Director of the particulars of the employment and of the name and address of the person so employed in order that the Director may inform the person so employed of his rights and duties under this Act. R.S.O. 1970, c. 24, s. 9.

11.—(1) The Lieutenant Governor in Council may designate any trade as a certified trade for the purposes of this Act, and may provide for separate branches or classifications within the trade. Certified trades

(2) No person, other than an apprentice or a person of a class that is exempt from this section or a person referred to in subsection (4), shall work or be employed in a certified trade unless he holds a subsisting certificate of qualification in the certified trade. Persons who may work in a certified trade

(3) No person shall employ any person, other than an apprentice or a person of a class that is exempt from this section or a person referred to in subsection (4), in a certified trade unless the person employed holds a subsisting certificate of qualification in the certified trade. Persons who may be employed in a certified trade

(4) When a trade is certified under subsection (1), a person who is working in the trade at the time that it is certified shall be allowed a period of two years from the first day of the month following the month in which the trade is certified to qualify for a certificate of qualification in the trade, if he, Qualification of those in the trade at time of designation

- (a) is the holder of a certificate of apprenticeship in the trade; or
- (b) satisfies the Director that he has been continuously engaged as a journeyman in the trade for a period of time in excess of the apprenticeship period for the trade; or

- (c) satisfies the Director that he is qualified to work in the trade and meets such other requirements as the Director may prescribe. R.S.O. 1970, c. 24, s. 10.

Employment
of appren-
tices on
government
contracts

R.S.O. 1980,
cc. 261, 290

12. Where an apprentice training program for a trade is in effect, no work shall be done in that trade on work within the meaning of the *Mechanics' Lien Act* or work under a contract within the meaning of the *Ministry of Transportation and Communications Creditors Payment Act* unless the contractor, as defined in that Act, has in his employ the number of apprentices required under the regulations. R.S.O. 1970, c. 24, s. 11.

Strikes

R.S.O. 1980,
c. 228

13. Where an apprentice lawfully strikes within the meaning of the *Labour Relations Act*, he shall be deemed not to have broken his contract of apprenticeship. R.S.O. 1970, c. 24, s. 12.

Essentials
of appren-
ticeship
contracts

14. Every contract of apprenticeship shall be,

- (a) for a period of at least two years;
- (b) in the prescribed form;
- (c) signed,
 - (i) by the employer,
 - (ii) by the person to be apprenticed, and
 - (iii) if he is under eighteen years of age, by a parent or the guardian of the person to be apprenticed, but, if neither parent nor the guardian is willing to sign or is capable of signing, a judge of the county or district court of a county or district in which the employer carries on business may, upon the application of the person to be apprenticed and without the appointment of a next friend, dispense with the signature of either parent or of the guardian upon proof to the satisfaction of the judge that the contract is in the interests of the person to be apprenticed; and
- (d) approved by the Director. R.S.O. 1970, c. 24, s. 13; 1971, c. 98, s. 4, Sched., par. 2.

Registration
of contracts

15. Every contract of apprenticeship shall, upon its approval by the Director, be registered by him forthwith. R.S.O. 1970, c. 24, s. 14.

Minors

16. Every apprentice who is under eighteen years of age shall perform and is entitled to the benefits of his contract of

apprenticeship in accordance with its terms in the same manner and to the same extent as if he were of the full age of eighteen years. R.S.O. 1970, c. 24, s. 15; 1971, c. 98, s. 4, Sched., par. 2.

17.—(1) A contract of apprenticeship shall not be terminated before the completion of the apprenticeship period provided therein except by, Termination
of appren-
ticeship
contracts

(a) the death of either party;

(b) consent, express or implied, of the parties; or

(c) cancellation for cause of the contract.

(2) Where in the opinion of the Director the terms of a contract of apprenticeship cannot be fulfilled to the advantage of either party, he may arrange for the transfer of the contract. Transfer

(3) The termination, cancellation or transfer of a contract of apprenticeship shall be noted by the Director on the registered copy of the agreement. R.S.O. 1970, c. 24, s. 16. Termination,
etc., to be
noted

18. Where an apprentice has completed an apprenticeship training program for a certified trade and has passed such final examinations as are prescribed by the Director to determine his competency and has complied with the provisions of this Act and the regulations, the Director shall issue to him a certificate of apprenticeship for the certified trade. 1971, c. 50, s. 7 (4), *part*. Certificate
of apprentice-
ship

19.—(1) Where an applicant for a certificate of qualification for a certified trade is the holder of a certificate of apprenticeship in the trade issued under this Act or a predecessor of this Act, the Director shall, upon payment of the prescribed fee and without examination, issue to him a certificate of qualification for the trade. Certificate
of qualifica-
tion to
holder of
certificate of
apprentice-
ship

(2) Where an applicant for a certificate of qualification for a certified trade who is not the holder of a certificate of apprenticeship in the trade has complied with the requirements of this Act and the regulations to entitle him to such certificate of qualification, the Director shall, upon payment of the prescribed fee, issue to him a certificate of qualification for the certified trade. 1971, c. 50, s. 7 (4), *part*. To non-
holder of
certificate
of apprentice-
ship

20.—(1) Unless otherwise prescribed by regulation, a certificate of qualification expires two years after the date of its issue. Term of
certificate

Renewal

(2) Subject to section 21, a certificate of qualification shall be renewed by the Director upon application and payment of the prescribed fee by the holder. 1971, c. 50, s. 7 (4), *part*.

Refusal
to renew,
suspension
or revoca-
tion

21. Subject to section 23, the Director may refuse to renew or may suspend or revoke a certificate of qualification where,

- (a) the holder is convicted of an offence under this Act or the regulations; or
- (b) there are reasonable grounds for believing that the holder is without capacity or not competent to perform work in the certified trade to which the certificate relates with reasonable skill. 1971, c. 50, s. 7 (4), *part*.

Suspension,
etc., of
trade school
licence

22. Where under the regulations a licence is required for the operation of a trade school teaching any trade to which this Act applies and a licence for a trade school has been issued thereunder, subject to section 23, the Director may refuse to renew or may suspend or revoke the licence where the school is not being operated,

- (a) in accordance with this Act and the regulations; or
- (b) so as to provide reasonable and adequate training for the students taught therein. 1971, c. 50, s. 7 (4), *part*.

Proposal
to suspend,
etc., licence

23.—(1) Where the Director proposes to refuse to renew or to suspend or revoke a certificate of qualification or a licence under section 21 or 22, he shall serve notice of his proposal, together with written reasons therefor, on the holder of the certificate or licensee.

Notice

(2) A notice under subsection (1) shall inform the holder of the certificate or licensee that he is entitled to a hearing by a judge of the county or district court for the county or district in which he resides if he applies to a judge thereof within fifteen days after the notice under subsection (1) is served on him, and he may so apply for such a hearing.

Powers of
Director
where no
hearing

(3) Where a holder of a certificate or licensee does not apply to a judge for a hearing in accordance with subsection (2), the Director may carry out the proposal stated in his notice under subsection (1).

Powers of
judge where
hearing

(4) Where a holder of a certificate or licensee applies to a judge for a hearing in accordance with subsection (2), the judge

shall appoint a time for and hold the hearing and, on the application of the Director at the hearing, may, by order, direct the Director to carry out his proposal or refrain from carrying out his proposal and to take such action as the judge considers the Director ought to take in accordance with this Act and the regulations, and for such purposes the judge may substitute his opinion for that of the Director.

(5) Where, within the time prescribed therefor or, if no time is prescribed, before expiry of his certificate of qualification or licence, a holder of the certificate or the licensee has applied for renewal thereof and paid the prescribed fee, the certificate or licence shall be deemed to continue, Continuation of certificate or licence pending renewal

(a) until the renewal is granted; or

(b) where he is served with notice that the Director proposes to refuse to grant the renewal, until the time for applying for a hearing by a judge has expired and, where a hearing is applied for, until the judge has made his decision.

(6) The Director, the holder of a certificate or licensee who has applied for the hearing and such other persons as the judge may specify are parties to proceedings before a judge under this section. 1971, c. 50, s. 7 (4), *part*. Parties

24.—(1) Service of a notice under section 8 or 23 may be made personally or by registered mail addressed to the person to be served at his last known address, and, where notice is served by registered mail, the notice shall be deemed to have been served on the third day after the day of mailing unless the person on whom notice is being served establishes to the judge to whom he applies for a hearing that he did not, acting in good faith, through absence, accident, illness or other cause beyond his control receive the notice or order until a later date. Service or notice

(2) A judge to whom application is made for a hearing under section 8 or 23 may extend the time for making the application, either before or after expiration of the time fixed therein, where he is satisfied that there are *prima facie* grounds for granting relief to the applicant pursuant to a hearing and that there are reasonable grounds for applying for the extension and may give such directions as he considers proper consequent upon the extension. Extension of time for appeal

(3) Notice of a hearing under section 8 or 23 shall afford the parties or the holder of a certificate or licence, as the case may be, a reasonable opportunity to show or to achieve Notice of hearing

compliance before the hearing with all lawful requirements for the continuation of the contract of apprenticeship or retention of the certificate of qualification or licence.

Examination
of docu-
mentary
evidence

(4) A party to a contract of apprenticeship or a holder of a certificate of qualification or licensee who is a party to proceedings under section 8 or 23 shall be afforded an opportunity to examine before the hearing any written or documentary evidence that will be produced or any report the contents of which will be given in evidence at the hearing.

Recording
of evidence

(5) The oral evidence taken before the judge at a hearing shall be recorded and, if so required, copies or a transcript thereof shall be furnished upon the same terms as in the Supreme Court.

Findings
of fact

R.S.O. 1980,
c. 484

(6) The findings of fact of a judge pursuant to a hearing shall be based exclusively on evidence admissible or matters that may be noticed under sections 15 and 16 of the *Statutory Powers Procedure Act*. 1971, c. 50, s. 7 (4), *part*.

Appeal to
court

25.—(1) Any party to proceedings before a judge under this Act may appeal from the decision or order of the judge to the Divisional Court in accordance with the rules of court.

Record to
be filed
in court

(2) Where notice of an appeal is served under this section, the judge shall forthwith file in the Divisional Court the record of the proceedings before him in which the decision or order was made which, together with the transcript of the evidence before the judge, if it is not part of the record of the judge, shall constitute the record in the appeal.

Minister
entitled to
be heard

(3) The Minister is entitled to be heard, by counsel or otherwise, upon the argument of an appeal under this section.

Powers of
court on
appeal

(4) The Divisional Court may affirm the decision of the judge appealed from or may rescind it and make such new decision as the court considers proper under this Act and the regulations, and may order the Director to do any act or thing he is authorized to do under this Act and as the court considers proper, and for such purpose the court may substitute its opinion for that of the Director or of the judge, or the court may refer the matter back to the judge for rehearing, in whole or in part, in accordance with such directions as the court considers proper. 1971, c. 50, s. 7 (4), *part*.

Offences

26.—(1) Every person,

(a) who contravenes any provision of this Act or the regulations;

- (b) who fails to carry out the terms of a contract of apprenticeship under this Act;
- (c) who enters into a contract or arrangement relating to the employment of an apprentice that is not in accordance with this Act;
- (d) who withholds any information with regard to the working or training conditions of apprentices or makes any misrepresentation with regard thereto;
- (e) who obstructs, hinders, prevents or otherwise interferes with the carrying out of this Act or the regulations or the terms of a contract of apprenticeship under this Act; or
- (f) who uses for the purpose of obtaining employment or business a certificate of apprenticeship, a certificate of qualification or a certificate of proficiency issued to another person,

is guilty of an offence and on conviction is liable to a fine of not more than \$1,000.

(2) In addition to any fine that may be imposed on an employer for his failure to pay an apprentice the wages due an apprentice, the court may order the employer to pay to the Director in trust for the apprentice an amount equal to the arrears of wages to which the apprentice is entitled, and, when the order becomes final, a copy of it, certified as a true copy by the court that made it, may be filed by the Director with the clerk of the county or district court of a county or district in which the employer carries on business or, where the amount of arrears does not exceed \$1,000, with the clerk of a like small claims court, and, when so filed and upon payment of the fees of the clerk of the court, such order becomes an order of the court in which it is filed and may be enforced as a judgment of the court against the employer for the amount mentioned in the order and the fees so paid. R.S.O. 1970, c. 24, s. 17.

Collection
of arrears
of apprentice's wages

27. A statement as to the issuing or non-issuing of a certificate, approval or licence, or the renewal, revocation or suspension of a certificate or licence, or as to the registration or non-registration of a contract of apprenticeship purporting to be certified by the Director is, without proof of the appointment or signature of the Director, receivable in evidence as *prima facie* proof of the facts stated therein for all purposes in any action, proceeding or prosecution. 1972, c. 113, s. 1.

Certificate
of Director
as evidence

Regulations

28. The Lieutenant Governor in Council may make regulations,

- (a) defining any trade;
- (b) establishing an apprentice training program for any trade or group of trades;
- (c) exempting any trade or class of persons in a trade from this Act and the regulations or from any provision of either of them;
- (d) providing a system of proficiency certificates for any trade not designated as a certified trade under section 11;
- (e) providing for approval by the Director of apprentice training programs established by employers;
- (f) providing licences for trade schools teaching any trade to which this Act applies and respecting their issue and prescribing courses of study and methods of training in such trade schools and respecting their operation;
- (g) respecting the periods of apprenticeship, qualifications and training of apprentices in any trade;
- (h) approving or prescribing courses of training or study for apprentices, and fixing the credits to be allowed for such courses;
- (i) prescribing, in respect of any trade, rates of wages for applicants for apprenticeship or apprentices or any class of applicants or apprentices;
- (j) prescribing the maximum number of persons who may be apprenticed to an employer in a trade;
- (k) respecting the ratio of apprentices to journeymen who may be employed by an employer in a trade;
- (l) providing for Interprovincial Standards Examinations and standing thereunder and for the recognition of certificates or standings granted under Interprovincial Standards Examinations in other provinces and the granting of certificates of qualification pursuant thereto;
- (m) providing for the granting of provisional certificates of qualification and the grounds therefor and the conditions thereof;

- (*n*) respecting the renewal of certificates of qualification that have expired without being renewed and the conditions of renewal;
- (*o*) providing for the issue of certificates of qualification or licences to persons whose certificates or licences have been cancelled and the conditions upon which they may be issued;
- (*p*) respecting the making, registration or transfer of contracts of apprenticeship;
- (*q*) requiring and providing for the posting up in employers' premises of extracts from this Act or the regulations;
- (*r*) defining any expression used in this Act for the purposes of this Act;
- (*s*) providing for and prescribing fees;
- (*t*) prescribing forms and providing for their use. R.S.O. 1970, c. 24, s. 18; 1971, c. 50, s. 7 (5-7).

CHAPTER 25

Arbitrations Act

1. In this Act,

Interpre-
tation

- (a) “court” means the Supreme Court;
- (b) “judge” means a judge of the Supreme Court;
- (c) “prescribed” means prescribed by the regulations made under this Act;
- (d) “rules of court” means the rules of the Supreme Court made under the *Judicature Act*;
- (e) “submission” means a written agreement to submit present or future differences to arbitration, whether or not an arbitrator is named therein. R.S.O. 1970, c. 25, s. 1; 1973, c. 28, s. 1.

R.S.O. 1980,
c. 223

2. This Act applies to an arbitration to which Her Majesty is a party. R.S.O. 1970, c. 25, s. 2.

Crown

3. This Act applies to every arbitration under any Act passed before or after the commencement of this Act as if the arbitration were pursuant to a submission, except in so far as this Act is inconsistent with the Act regulating the arbitration or with any rules or procedure authorized or recognized by that Act. R.S.O. 1970, c. 25, s. 3.

References
under
statutory
powers

4. A submission, unless a contrary intention is expressed therein, is irrevocable, except by leave of the court, and has the same effect as if it had been made an order of the court. R.S.O. 1970, c. 25, s. 4.

Irrevoca-
bility of
submission

5. A submission, unless a contrary intention is expressed therein, shall be deemed to include the provisions set forth in the Schedule hereto, so far as they are applicable to the reference. R.S.O. 1970, c. 25, s. 5.

What sub-
mission to
include

6. Where a submission provides that the reference is to an official referee, any official referee to whom application is made shall hear and determine the matters agreed to be referred. R.S.O. 1970, c. 25, s. 6.

Official
referee to
act

Staying legal
proceedings
taken after
submission

7. If a party to a submission, or a person claiming through or under him, commences any legal proceeding in any court against any other party to the submission, or any person claiming through or under him, in respect of any matter agreed to be referred, any party to such legal proceeding may at any time after appearance and before delivering any pleading or taking any other step in the proceeding apply to that court to stay the proceeding and a judge of that court, if satisfied that there is no sufficient reason why the matter should not be referred in accordance with the submission and that the applicant was at the time when the proceeding was commenced and still remains ready and willing to do all things necessary to the proper conduct of the arbitration, may make an order staying the proceeding. R.S.O. 1970, c. 25, s. 7.

Appoint-
ment by
court

8.—(1) In any of the following cases,

- (a) where a submission provides that the reference is to a single arbitrator and the persons whose concurrence is necessary do not, after differences have arisen, concur in the appointment of an arbitrator; or
- (b) where an arbitrator, an umpire or a third arbitrator is to be appointed by a person and such person does not make the appointment; or
- (c) unless the submission otherwise provides, where an arbitrator, an umpire or a third arbitrator refuses to act or is incapable of acting or dies and the vacancy is not supplied by the person having the right to fill the vacancy,

a party may serve the other party or the arbitrators, or the person who has the right to make the appointment, as the case may be, with a written notice to concur in the appointment of a single arbitrator or to appoint an arbitrator, umpire or third arbitrator.

When court
may
appoint

(2) If the appointment is not made within seven clear days after the service of the notice, a judge may, on application by the party who gave the notice, appoint an arbitrator, umpire or third arbitrator, who shall have the like powers to act in the reference and make an award as if he had been appointed by consent of all parties. R.S.O. 1970, c. 25, s. 8.

Powers of
arbitrators

9. An arbitrator or umpire acting under a submission has, unless the submission expresses a contrary intention, power,

- (a) to administer oaths to the parties and witnesses;

- (b) to state an award as to the whole or part thereof in the form of a special case for the opinion of the court; and
- (c) to correct in an award any clerical mistake or error arising from any accidental slip or omission. R.S.O. 1970, c. 25, s. 9.

10. The time for making an award may from time to time be enlarged by a judge whether or not the time for making the award has expired. R.S.O. 1970, c. 25, s. 10. Enlarging time for making award

11.—(1) The court may remit the matters referred, or any of them, to the reconsideration of the arbitrators or umpire. Remitting for reconsideration

(2) The arbitrators or umpire shall, unless the order otherwise directs, make the award within three months after the date of the order. R.S.O. 1970, c. 25, s. 11. When award to be made

12.—(1) Where an arbitrator or umpire has misconducted himself, the court may remove him. Removal of arbitrator

(2) Where an arbitrator or umpire has misconducted himself or an arbitration or award has been improperly procured, the court may set the award aside. R.S.O. 1970, c. 25, s. 12. Setting aside award

13. An award may, by leave of a judge, be enforced in the same manner as a judgment or order to the same effect. R.S.O. 1970, c. 25, s. 13. Enforcing award

14. A party to a submission may sue out of the court a writ of subpoena *ad testificandum* or a writ of subpoena *duces tecum*, but no person shall be compelled under any such writ to produce any document that he would not be compellable to produce on the trial of an action. R.S.O. 1970, c. 25, s. 14. Subpoenaing witnesses

15.—(1) Where a party to a submission desires to procure for use upon the reference the evidence of a person to be taken *de bene esse* or to be taken out of Ontario, an order may be made for the examination of such person or for the issue of a commission in the like circumstances and with the like effect as a similar order may be made in an action. Commission to examine witnesses

(2) The *Judicature Act* and the rules of court apply to such order or commission and to the proceedings thereon and the evidence taken thereunder. R.S.O. 1970, c. 25, s. 15. Application of R.S.O. 1980, c. 223 and rules

16.—(1) Where it is agreed by the terms of the submission that there may be an appeal from the award, an appeal lies to the Divisional Court. Where submission provides for appeal

Procedure
by party
taking up
award

(2) Where by the agreement of the parties or by the provisions of any statute there is an appeal from an award, the party taking up the award shall file it with the registrar of the court and shall serve a copy of it and a notice of its filing upon the opposite party.

Notice of
appeal

(3) Notice of appeal may be served within fourteen days returnable within thirty days after service of the copy of the award and notice of filing.

Taking
evidence in
writing

(4) In all cases in which there is a right of appeal, the evidence of the witnesses shall be taken down in longhand and be signed by the witnesses, or be taken in shorthand.

Evidence
to be
transcribed
only on
an appeal

(5) It is not necessary that evidence taken in shorthand be transcribed unless an appeal is taken.

Exhibits,
transmission
to registrar

(6) Upon the request of the party appealing, the exhibits shall be transmitted by the arbitrator to the office of the registrar of the court for the purpose of the appeal.

Oath of
stenographer

(7) A stenographer employed to take evidence in shorthand shall be sworn to take down and transcribe the evidence faithfully and shall certify to the accuracy of all copies supplied.

Statement of
proceeding
on view or
special
knowledge

(8) Where the arbitrators proceed wholly or partly on a view or any knowledge or skill possessed by themselves or any of them, they shall also put in writing a statement thereof sufficiently full to enable a judgment to be formed of the weight that should be attached thereto.

Requiring
further
report from
arbitrator

(9) The Divisional Court may require explanations or reasons from the arbitrator and may remit the matter or any part thereof to him for further consideration.

Powers of
court as to
extension
of time

(10) The Divisional Court may extend the time limited by this section either before or after its expiry or may dispense with compliance with the requirements of this section. R.S.O. 1970, c. 25, s. 16.

Interpre-
tation

17. In sections 18 to 24,

(a) "arbitrator" and "arbitrators" include an umpire and a referee in the nature of an arbitrator;

(b) "award" includes umpirage and a certificate in the nature of an award. R.S.O. 1970, c. 25, s. 17.

18. The parties to a submission may agree, by writing signed by them or by making such agreement a part of the submission, to pay to the arbitrator or to the arbitrators, if more than one, such fees for each day's attendance, or such gross sum for taking upon themselves the burden of the reference and making the award, as the parties see fit, and no arbitrator shall take or receive from either party to a submission any greater fee than that agreed upon, or in default of agreement than the maximum prescribed therefor, and the receipt of any greater fee may be regarded as misconduct justifying the setting aside of the award. R.S.O. 1970, c. 25, s. 18; 1973, c. 28, s. 2; 1976, c. 5, s. 1.

Agreement
as to fees to
be paid to
arbitrators

19. No greater fees shall be taxed to a person called as a witness before an arbitrator than would be taxed to him in an action in the court. R.S.O. 1970, c. 25, s. 19.

Fees to
witnesses

20. Where at a meeting of arbitrators of which due notice has been given no proceedings are taken in consequence of the absence of a party, or of a postponement at the request of a party, the arbitrators shall make up an account of the costs of the meeting, including the proper charges for their own attendance and that of any witnesses and of the counsel or solicitor of the party present and not desiring the postponement, and, unless under the special circumstances of the case they think that it would be unjust so to do, they shall charge the amount thereof, or of the disbursements, against the party in default or at whose request the postponement is made, and the last mentioned party shall pay the same to the other party, whatever may be the event of the reference, and the arbitrators shall, in the award, make any direction necessary for that purpose, and the amount so charged may be set off against, and deducted from, any amount awarded in his favour. R.S.O. 1970, c. 25, s. 20.

Costs of
meeting
where no
proceedings

21.—(1) A party to an arbitration is entitled to have the costs thereof, including the fees of the arbitrators, or such fees alone, taxed by one of the taxing officers of the court at Toronto upon an appointment that may be given by the taxing officer for that purpose on the filing of an affidavit setting forth the facts.

Taxation, at
instance
of parties

(2) A taxation of the fees of the arbitrators may be had upon an appointment given at the instance of the arbitrators or any of them upon a like affidavit. R.S.O. 1970, c. 25, s. 21.

at instance
of
arbitrators

22.—(1) The taxing officer shall in no case, except as provided in section 18, tax higher fees than are prescribed to the arbitrators but, upon reasonable grounds, he may reduce the fees to any amount below the maximum prescribed, but

Discretion
of taxing
officer

not below the minimum, having regard always to the length of the arbitration, the value of the matter in dispute, and the difficulty of the questions to be decided, and the fees to be allowed to solicitors and counsel shall be as nearly as may be similar to the fees allowed upon a reference in the court or the county court, the scale to be determined by the taxing officer having regard to the value of the matter in dispute, but he shall not tax more than one counsel fee to either party. R.S.O. 1970, c. 25, s. 22 (1); 1973, c. 28, s. 3.

Costs of
award

(2) The taxing officer may tax a reasonable sum for preparing the award.

Appeal from
taxation

(3) An appeal may be had from such taxation in the same manner as from a taxing officer's certificate of taxation in an action.

Power to
reduce fees

(4) The taxing officer and the judge upon appeal from taxation have the power to reduce fees payable to the arbitrator and to counsel and solicitors where the arbitration has been unduly prolonged. R.S.O. 1970, c. 25, s. 22 (2-4).

Penalty for
arbitrator
attempting
to exact
excessive
fees

23. An arbitrator who, after having entered upon the reference, refuses or delays after the expiration of one month from the publication of the award to deliver it until a larger sum is paid to him for his fees than is permitted by this Act, or who receives for his award or for his fees as arbitrator any such larger sum, shall forfeit and pay to the party who has demanded delivery of the award or who has paid to the arbitrator such larger sum in order to obtain, or as a consideration for having obtained it, treble the excess so demanded or received by the arbitrator contrary to this Act, to be recovered by action in a court of competent jurisdiction. R.S.O. 1970, c. 25, s. 23.

Arbitrator
to have
action
for fees

24. Where an award has been made, the arbitrator may maintain an action for his fees after they have been taxed, and in the absence of an express agreement to the contrary, he may maintain such action against all the parties to the reference, jointly or severally. R.S.O. 1970, c. 25, s. 24.

Order to
sheriff to
produce
prisoner as
witness

25. A judge may order the sheriff, jailer or other officer having the custody of a prisoner to produce him for examination before an arbitrator or an umpire. R.S.O. 1970, c. 25, s. 25.

Case stated
for opinion of
Divisional
Court

26. An arbitrator or an umpire may at any stage of the proceedings and shall, if so directed by the Divisional Court, state in the form of a special case for the opinion of the Divisional Court any question of law arising in the course of the reference, and an arbitrator or umpire appointed under the authority of a statute or

by a court shall, when so directed by the Divisional Court, state the reasons for his decision and his findings of fact and of law. R.S.O. 1970, c. 25, s. 26.

27. An order made under this Act may be made on such terms as to costs or otherwise as the authority making the order thinks just. R.S.O. 1970, c. 25, s. 27. Costs in discretion of court

28. An arbitrator or an umpire, where no special reason appears to him to exist for filing an original book, paper or document as an exhibit, as hereinbefore provided, may allow a copy thereof or of such part thereof as he considers material to be substituted as an exhibit in the place of the original book, paper or document. R.S.O. 1970, c. 25, s. 28. Dispensing with filing original exhibits

29. Upon an appeal from or motion to set aside an award, any party may by notice require any other party to produce, and the party so required shall produce upon the hearing of the appeal or motion, any original book, paper or document in his possession that has been used as an exhibit or given in evidence upon the reference and that has not been filed with the depositions. R.S.O. 1970, c. 25, s. 29. Production of exhibits on appeal or motion to set aside award

30.—(1) Except by leave of the court, an application to set aside an award, otherwise than by way of appeal, shall not be made after six weeks from the publication of the award. Time for moving to set aside

(2) Such leave may be granted before or after the expiration of the six weeks. Time within which leave may be granted

(3) In the computation of time for appealing against, or applying to set aside, an award, the vacations shall not be reckoned. Vacations not reckoned

(4) When an award is set aside, the court setting it aside may give directions as to the costs of the reference and award. R.S.O. 1970, c. 25, s. 30. Costs of reference and award when award set aside

31.—(1) Subject to the approval of the Lieutenant Governor in Council, rules of court for the better carrying out of the purposes of this Act and regulating the practice thereunder may be made by the Rules Committee. R.S.O. 1970, c. 25, s. 31. Power to make rules

(2) The Lieutenant Governor in Council may make regulations prescribing the maximum and minimum fees chargeable by arbitrators under this Act in default of agreement. 1973, c. 28, s. 4; 1976, c. 5, s. 2. Fees

Appoint-
ment of
valuator, etc.

32.—(1) A judge has power to appoint a valuator, valuer or appraiser in cases in which it is provided by a written agreement that a valuation or appraisal shall be made by a valuator, valuer or appraiser.

Exercise
of power

(2) The power may be exercised in the like cases and the proceedings shall be the same as provided by section 8, except that the court does not have power, without the consent of the parties, to appoint a valuator, valuer or appraiser in the place of the one who is named in the agreement and who refuses to act, is incapable of acting or dies. R.S.O. 1970, c. 25, s. 32.

SCHEDULE

(Section 5)

PROVISIONS TO BE IMPLIED IN SUBMISSIONS

1. If no other mode of reference is provided, the reference is to a single arbitrator.

2. If the reference is to two arbitrators, the two arbitrators may appoint an umpire at any time within the period during which they have power to make an award.

3. If an arbitrator or umpire or third arbitrator refuses to act or is incapable of acting or dies, the party or parties, or the arbitrators by whom he was appointed, may appoint an arbitrator, umpire or third arbitrator, as the case may be, in his stead, and this power may be exercised from time to time as vacancies occur.

4. The submission is not revoked by the death of the parties or either of them.

5. The award shall be delivered to any of the parties requiring it, and the personal representatives of a party deceased may require delivery of the award.

6. The arbitrators shall make their award in writing within three months after entering on the reference, or after having been called on to act by notice in writing from any party to the submission, or on or before any later date to which the arbitrators, by any writing signed by them, may from time to time enlarge the time for making the award.

7. If the arbitrators have allowed their time or extended time to expire without making an award, or have delivered to any party to the submission, or to the umpire, a notice in writing stating that they cannot agree, the umpire may forthwith enter on the reference in lieu of the arbitrators.

8. The umpire shall make his award within one month after the original or extended time appointed for making the award of the arbitrators has expired, or on or before any later day to which the umpire by any writing signed by him may from time to time enlarge the time for making his award.

9. The parties to the reference, and all persons claiming through them respectively, shall, subject to any legal objection, submit to be examined by the arbitrators or umpire, on oath in relation to the matters in dispute, and shall, subject as aforesaid, produce before the arbitrators or umpire all books, deeds, papers, accounts, writings, documents and things within their possession or power respectively that may be required or called for, and do all other things during the proceedings on the reference that the arbitrators or umpire require.

10. The witnesses on the reference shall be examined on oath.

11. The award to be made by the arbitrators or by a majority of them or by the umpire is final and binding on all the parties and the persons claiming under them respectively.

12. The costs of the reference and award are in the discretion of the arbitrators or umpire, who may direct to and by whom and in what manner those costs or any part thereof shall be paid.

CHAPTER 26

Architects Act

1. The Ontario Association of Architects, hereinafter called the Association, is continued as a body corporate. The Ontario Association of Architects continued
R.S.O. 1970, c. 27, s. 1.

2. The objects of the Association are to promote and increase the knowledge, skill and proficiency of its members in all things relating to the profession of architecture and to advance and maintain a high standard in the practice of architecture in Ontario, and to those ends to establish and maintain or to assist in the establishment and maintenance of classes, schools, exhibitions or lectures in, and to promote public appreciation of, architecture and the allied arts and sciences. Objects
R.S.O. 1970, c. 27, s. 2.

3. The Association may acquire by purchase, lease or otherwise and possess real estate for its purposes, but for no other purposes, and may sell, mortgage, lease or otherwise dispose of any of its real estate. Power to hold real estate
R.S.O. 1970, c. 27, s. 3.

4. The head office of the Association shall be at the City of Toronto. Head office
R.S.O. 1970, c. 27, s. 4.

5.—(1) Membership in the Association shall be granted by the Registration Board of the Association on application to it if the applicant, Qualifications for membership

- (a) is of good character;
- (b) is not less than twenty-one years of age;
- (c) has passed the prescribed examination of the Registration Board or is exempted therefrom pursuant to its regulations;
- (d) is domiciled in Ontario; and
- (e) is a British subject, or has taken the oath of allegiance and declared his intention of becoming a British subject.

(2) No corporation shall be granted membership in the Association or be licensed to practise architecture in Ontario. Corporations excluded
R.S.O. 1970, c. 27, s. 5.

Exception

(3) Subsection (2) does not prevent a member of the Association from offering or providing architectural services to a corporation in order to enable the corporation to provide architectural services in respect of a work or project situate outside Ontario. 1979, c. 104, s. 1.

Non-resident
architects
desiring to
practise

6. Membership in the Association or temporary licences to practise in Ontario may be granted, upon such terms and subject to such conditions as the Registration Board by regulation provides, to any person who is a British subject domiciled outside Ontario but within the Commonwealth who is a member of an association or society of architects within the Commonwealth recognized by the Board. R.S.O. 1970, c. 27, s. 6.

Council of
Association

7.—(1) There shall be a council of the Association, in this Act called the Council, which shall consist of six members who shall be elected and hold office as provided in this section and where the immediate past president of the Association has not been re-elected to the Council, he shall also be a member thereof until he ceases to be the immediate past president, and the Council has power by by-law to increase the number of its members.

Electoral
districts

(2) At least one member of the Council shall be elected from each of five electoral districts to be known as the Windsor, Hamilton, Toronto, London and Ottawa districts, and the five districts shall be composed as set forth in the Schedule, but the Council may by by-law alter the composition of any of the electoral districts and in any by-law increasing the number of members of the Council may provide for the creation of one or more new electoral districts and for the election of at least one member of the Council from each new district.

Inclusion of
city or town

(3) An electoral district established by reference to a county or territorial district includes the cities and separated towns therein.

Term of
office

(4) Members of the Council shall hold office for three years from the 1st day of January following the date of their election.

Filling
vacancies

(5) Any member of the Council may resign by letter addressed to the president of the Association, and every vacancy caused by the death, resignation or incapacity to act of a member of the Council shall be filled by a member of the Association,

(a) if a quorum of the Council remains in office, appointed by a majority vote of the members of the Council; or

(b) if no quorum of the Council remains in office, elected under this section,

and a person so appointed or elected shall be from the electoral district of the member whose place he is appointed or elected to fill and shall hold office for the unexpired portion of the term of such member.

(6) A retiring member of the Council is not eligible ^{Re-election} for re-election for the year immediately following his retirement, except where he is the president or vice-president at the date of his retirement. R.S.O. 1970, c. 27, s. 7.

8.—(1) The Registration Board of the Association, in ^{Registration Board} this Act called the Board, is continued and shall carry on the functions of the Architects' Registration Board established under *The Architects' Act, 1931*, except as ^{1931, c. 43} herein varied, and the Board shall be composed as follows:

1. One member of the Association to be appointed ^{University appointees} by the University of Toronto and one member of the Association by each other university, college or body in Ontario that is by law authorized to grant degrees in architecture and that establishes and maintains to the satisfaction of the Board a faculty, school or department of architecture in connection therewith, each member appointed under this paragraph to hold office for a period of three years from the 1st day of January following his appointment.
2. One member of the Association to be appointed ^{Government appointee} by the Lieutenant Governor in Council, to hold office for a period of three years from the 1st day of January following his appointment.
3. Three members of the Association for the first ^{Elected members} appointee under paragraph 1 and one additional member of the Association for each additional appointee under paragraph 1, these members to be elected in the manner hereinafter provided, and each to hold office for three years from the 1st day of January following his election.

(2) Any member of the Board not otherwise disqualified ^{Eligibility for re-appointment} is eligible for reappointment or re-election at the expiration of his term, but a member of the Council elected to the Board shall resign his seat on the Council before taking his seat on the Board, and a member of the Board, while in office, is not eligible for election to the Council.

(3) Any member of the Board may resign by letter ^{Filling vacancies} addressed to the chairman of the Board, and every vacancy

on the Board caused by the death, resignation or incapacity to act of any member shall be filled,

- (a) if such member has been appointed under paragraph 1 of subsection (1) by the university, college or body that appointed him;
- (b) if such member has been appointed under paragraph 2 of subsection (1), by the Lieutenant Governor in Council; and
- (c) if such member has been elected under paragraph 3 of subsection (1), by a majority of the members of the Board still in office, if a quorum is still in office, or, if not, by election under the said paragraph 3,

and a member of the Board appointed or elected to fill a vacancy shall hold office for the unexpired portion of the term of the member whose place he is appointed or elected to fill. R.S.O. 1970, c. 27, s. 8.

Right to
vote

9. All members of the Association are entitled to vote at elections for the Council and for the elective members of the Board. R.S.O. 1970, c. 27, s. 9.

Regulations

10.—(1) The Board may make regulations,

- (a) for the admission of members of the Association and the annual renewal of membership therein;
- (b) prescribing the qualifications of persons to be admitted and the proofs to be furnished as to education, good character and experience;
- (c) prescribing examinations for admission and the method of conducting them;
- (d) for keeping a register of members of the Association and for issuing certificates of membership under the seal of the Association and calling in such certificates where membership lapses or is cancelled or suspended;
- (e) prescribing the fees to be paid on admission of members to the Association, by associates and student associates, on examinations, on annual renewal of membership in the Association and as annual fees by associates and student associates;

- (f) providing for the discipline and control of members of the Association, including provision for the signing or sealing of drawings and specifications prepared by members of the Association;
- (g) providing for the cancellation of membership for non-payment of fees and for the cancellation of membership where a member changes his domicile to a place outside the Commonwealth;
- (h) providing for the election of members of the Council and of the elective members of the Board, for the holding of meetings of the Board and for fixing the quorum of the Board;
- (i) for the election of a chairman and vice-chairman and the appointment of a secretary and such other officers of the Board as it desires and for prescribing their duties, and, subject to the provisions herein-after contained, for fixing their remuneration;
- (j) for granting temporary licences to practise architecture under section 6 and fixing the fees to be paid thereon;
- (k) generally for the better carrying out of the powers vested in the Board.

(2) Subject to the approval of the Lieutenant Governor ^{Disciplinary regulations} in Council, the Board may make regulations,

- (a) providing for the investigation of any complaint that a member of the Association has been guilty of misconduct or incompetence, so as to render it desirable in the public interest that his membership be suspended or cancelled;
- (b) providing for the cancellation or suspension of the membership of any person found by the Board to be guilty of misconduct or incompetence and for the publication in the public press of notice of such cancellation or suspension and the reasons therefor;
- (c) providing the terms and conditions on which a member whose membership has been cancelled may in a proper case be restored to membership.

(3) A copy of every regulation made under this section ^{Publication of regulations} shall be furnished to every member of the Association.
R.S.O. 1970, c. 27, s. 10.

By-laws

11. The Council may pass by-laws,

- (a) for the control and management of the real and personal property of the Association;
- (b) instituting and furnishing means and facilities for the promotion of knowledge, proficiency and a high standard of ethics in all things relating to the practice of architecture;
- (c) providing for scholarships, lectures and exhibitions;
- (d) for the holding of meetings of the Association and the Council and fixing the quorum thereat;
- (e) for the election of a president, vice-president, and treasurer of the Association and the appointment of a secretary and such other officers of the Association as the Council desires and for prescribing their duties, and, subject to the provisions hereinafter contained, for fixing their remuneration;
- (f) for the election of associates, student associates, and honorary members;
- (g) appointing representatives to other architectural associations or bodies and maintaining connection with the Royal Architectural Institute of Canada;
- (h) generally for carrying out the objects of the Association in all matters other than those referred to in section 10, all of which are reserved for regulation by the Board. R.S.O. 1970, c. 27, s. 11.

Application
of funds
of the
Association

12. The Council shall provide from the funds of the Association all moneys required by the Board to enable it to function in accordance with the powers vested in it, and any funds of the Association may be applied in carrying out this Act and the regulations or by-laws made under it and in furthering the objects of the Association and paying the costs and expenses incurred for or incident to the enactment of this legislation. R.S.O. 1970, c. 27, s. 12.

Duty of
Council and
members in
respect of
complaints

13. It is the duty of each member of the Council to bring before it all complaints of misconduct or incompetence on the part of any member of the Association that may be brought to his attention and it is the duty of the Council to bring before the Board all such cases that in its

opinion should be dealt with by the Board, but nothing herein prevents anyone from bringing before the Board any complaints of misconduct or incompetence on the part of any member of the Association. R.S.O. 1970, c. 27, s. 13.

14. There shall be paid to the members of the Council ^{Fees} and the Board such fees for attendance and such reasonable travelling expenses as are fixed, in the case of the Board, by its regulations and, in the case of the Council, by by-law, such fees, exclusive of travelling expenses, not to exceed \$15 per meeting for the chairman of the Board and \$15 per meeting for the president of the Association and \$10 per meeting for any other member of the Board or the Council, but, where the secretary of the Board or the Council is also a member of the Board or the Council, he may be paid such salary as the body appointing him decides upon, in addition to or by way of substitution for his fee as a member of such body. R.S.O. 1970, c. 27, s. 14.

15. Subject to the approval of the Council, members ^{Chapters} may form themselves into groups for promoting the objects of the Association, and such groups shall be known as Chapters and, subject to the approval of the Council, each Chapter has power to make by-laws for the admission of members and associates thereof, for the election of officers and the holding of meetings and for otherwise conducting its affairs. R.S.O. 1970, c. 27, s. 15.

16.—(1) Every person who, not being a member of the Association, or who, having been a member, has had his membership cancelled or is under suspension, or who, not being licensed under section 6, applies to himself the term "architect" alone or in combination with any other term, or who holds himself out as an architect, is guilty of an offence and on conviction is liable to a fine of not more than \$100 for a first offence and to a fine of not less than \$300 and not more than \$500 or to imprisonment for a term of not more than three months, or to both, for any subsequent offence. ^{Prohibition against use of word "architect", etc.}

(2) Every corporation that applies to itself the term "architect" or "architects" alone or in combination with any other term or that holds itself out as an architect or as architects is guilty of an offence and the corporation or any director thereof, on conviction, is liable to a fine of not less than \$100 and not more than \$500 for a first offence and to a fine of not less than \$200 and not more than \$1,000, or to imprisonment ^{Idem, corporations}

for a term of not more than three months, or to both, for any subsequent offence.

Holding out
as architect
defined

(3) Without restricting the generality of subsections (1) and (2), any person or corporation who prepares or offers to prepare for a fee, commission or other remuneration any sketch, drawing or specification for a proposed building structure or for a structural alteration of or addition to an existing building structure, when such proposed work is to cost more than \$10,000, shall be deemed to hold himself or itself out as an architect. R.S.O. 1970, c. 27, s. 16 (1-3).

Proviso

(4) Nothing in this Act prevents or shall be construed to prevent,

R.S.O. 1980,
c. 394

- (a) any person from performing his duties in the Canadian Forces;
- (b) any member or licensee of the Association of Professional Engineers of the Province of Ontario under the *Professional Engineers Act* or any employee or person working under the responsibility of such member or licensee from performing architectural services in the course of any work undertaken or proposed to be undertaken by such member or licensee as an engineer;
- (c) any partnership, association of persons or corporation that is entitled to practise in its own name under the *Professional Engineers Act* in accordance with the conditions therein prescribed from performing architectural services in the course of any work undertaken or proposed to be undertaken by such partnership, association or corporation pursuant to such entitlement;
- (d) any person or corporation from preparing a sketch, drawing or specification for a structure in, upon or pertaining to a mining property, or an alteration of or addition to an existing structure in, upon or pertaining to a mining property;
- (e) a *bona fide* member of an architect's staff from preparing a sketch, drawing or specification in the course of his employment under the supervision of the architect;
- (f) a *bona fide* building contractor, whether a person or a corporation, or a *bona fide* member of such contractor's staff domiciled in Ontario from preparing

a sketch, drawing or specification for such contractor's own use as a building contractor in the construction or alteration by such contractor, or by tradesmen employed by such contractor, of a building structure, whether it be proceeded with or not, and obtaining remuneration therefor;

- (g) any person or corporation from preparing a sketch, drawing or specification for interior decorations or the installation in the interior of a structure of fixtures, non-bearing partitions or equipment where the structural alterations involved do not raise considerations of strength or safety;
- (h) any person or corporation from using the term "Landscape Architect";
- (i) any person in the course of his employment under the supervision of or in conjunction with an architect from preparing a sketch, drawing or specification for work to be undertaken by his employer;
- (j) any person, firm or corporation engaged in the business of selling prefabricated building structures from furnishing such drawings, diagrams and directions as are required for the assembling and erection of such structures; or
- (k) a corporation from offering or providing the architectural services of a member of the Association in respect of a work or project situate outside Ontario. R.S.O. 1970, c. 27, s. 16 (4); 1979, c. 104, s. 2.

(5) Associates, student associates and honorary members shall not be deemed to be members of the Association within the meaning of this section unless and until admitted to membership under section 5 or 6, but an honorary member or associate who has at some time been a member of the Association may continue to apply to himself the term "architect", but may not practise architecture. R.S.O. 1970, c. 27, s. 16 (5).

Students,
honorary
members,
etc.

17. In the investigation of a complaint against a member of the Association, the Board has the powers of a commission under Part II of the *Public Inquiries Act*, which Part applies to such investigation as if it were an inquiry under that Act. R.S.O. 1970, c. 27, s. 17; 1971, c. 49, s. 18.

Board has
power of
commission
under
R.S.O. 1980,
c. 411

No action
to lie against
Board or
Council

18. No action shall be brought against the Board or the Council or any member or officer thereof for anything done under this Act or under any by-law or regulation made under this Act. R.S.O. 1970, c. 27, s. 18.

Appeal

19.—(1) Anyone whose membership has been suspended or cancelled may, within fifteen days after the date of the order of suspension or cancellation, appeal to the Divisional Court from such order in accordance with the rules of court and the court has power to confirm, vary, vacate or set aside such order or to make such other order as it considers just, and to make an order for payment of the costs of the appeal and there shall be no further or other appeal.

Practising
pending
appeal

(2) Pending an appeal, the person whose membership is suspended or cancelled may continue to practise, but, unless the order of suspension or cancellation is set aside, he shall not practise after the appeal has been disposed of, except that, in the case of suspension, he may practise upon and after the expiry of the period of suspension. R.S.O. 1970, c. 27, s. 19, *revised*.

False
certificates

20. Every architect who wilfully makes a false certificate with respect to any work done or with respect to the cost, value or condition of any work or building is guilty of an offence and, in addition to being liable in damages for any injury or loss thereby suffered, is on conviction liable to a fine of not more than \$100. R.S.O. 1970, c. 27, s. 20.

Witness
fees

21. Every architect summoned to attend a civil or criminal court for the purpose of giving evidence in his professional capacity, for each day he so attends, is entitled to \$5 in addition to his travelling expenses, to be taxed and paid in the manner by law provided with regard to the payment of witnesses attending such court. R.S.O. 1970, c. 27, s. 21.

Recovery
of fees

22. All fees fixed by the regulations of the Board shall be deemed to be a debt due to the Association and are recoverable with the costs of the suit in the name of the Association in the small claims court of the division in which the member liable resides or practises as an architect. R.S.O. 1970, c. 27, s. 22.

SCHEDULE

(Section 7 (2))

ELECTORAL DISTRICTS

Windsor

Counties of Essex, Kent and Lambton.

Hamilton

Counties of Brant, Grey, Simcoe, and Wellington, The Regional Municipality of Hamilton-Wentworth, The Regional Municipality of Haldimand-Norfolk, The Regional Municipality of Niagara and The Regional Municipality of Waterloo.

Toronto

The Municipality of Metropolitan Toronto, The Regional Municipality of Durham, The Regional Municipality of Halton, The Regional Municipality of Peel, The Regional Municipality of York and the counties of Dufferin, Haliburton, Hastings, Lennox and Addington, Northumberland, Peterborough, Prince Edward, and Victoria and the territorial districts of Algoma, Kenora, Manitoulin, Muskoka, Parry Sound, Rainy River and Thunder Bay and all places outside Ontario.

London

Counties of Bruce, Elgin, Huron, Middlesex, Oxford and Perth.

Ottawa

Counties of Dundas, Frontenac, Glengarry, Grenville, Lanark, Leeds, Prescott, Renfrew, Russell and Stormont and The Regional Municipality of Ottawa-Carleton and the territorial districts of Cochrane, Nipissing, Sudbury and Timiskaming.

R.S.O. 1970, c. 27, Sched., *revised*.

CHAPTER 27

Archives Act

1. In this Act,

Interpre-
tation

(a) "Archives" means the Archives of Ontario;

(b) "Archivist" means the officer appointed to administer this Act. 1972, c. 1, s. 14 (1), *part*.

2. There shall be an Archivist who shall be appointed by the Lieutenant Governor in Council with the rank of a deputy head of a Ministry and who shall be in charge of the administration of this Act under the direction of the member of the Executive Council to whom the administration of this Act is assigned. 1972, c. 1, s. 14 (1), *part*.

3. Subject to the regulations, all original documents, parchments, manuscripts, papers, records and other matters in the executive and administrative departments of the Government or of the Assembly, or of any commission, office or branch of the public service shall be delivered to the Archives for safekeeping and custody within twenty years from the date on which such matters cease to be in current use. R.S.O. 1970, c. 28, s. 3; 1972, c. 1, s. 14 (2).

4. The Archivist is authorized and directed to receive and grant discharges for all such matters as are transferred to the Archives under this Act and the Archives is thereafter responsible for the safekeeping of the matters so transferred. R.S.O. 1970, c. 28, s. 4; 1972, c. 1, s. 14 (2).

5. The objects of the Archives are,

Objects of
Archives

(a) the classification, safekeeping, indexing and cataloguing of all matters transferred to the Archives under section 3;

(b) the discovery, collection and preservation of material having any bearing upon the history of Ontario;

(c) the copying and printing of important public documents relating to the legislative or general history of Ontario;

- (d) the collecting of all documents having in any sense a bearing upon the political or social history of Ontario and upon its agricultural, industrial, commercial or financial development;
- (e) the collecting of municipal, school and church records;
- (f) the collection and preservation of pamphlets, maps, charts, manuscripts, papers, regimental muster rolls and other matters of general or local interest historically in Ontario;
- (g) the collection and preservation of information respecting the early settlers of Ontario, including pioneer experience, customs, mode of living, prices, wages, boundaries, areas cultivated, and home and social life;
- (h) the collection and preservation of the correspondence of settlers, documents in private hands relating to public and social affairs and reports of local events of historic interest in domestic and public life;
- (i) the conducting of research with a view to preserving the memory of pioneer settlers in Ontario and of their early exploits and the part taken by them in opening up and developing the Province. R.S.O. 1970, c. 28, s. 5; 1972, c. 1, s. 14 (2).

Preservation
of official
documents

6. Subject to the regulations, no official document, paper, pamphlet or report in the possession of any ministry or branch of the public service or of the Assembly shall be destroyed or permanently removed without the knowledge and concurrence of the Archivist. R.S.O. 1970, c. 28, s. 6; 1972, c. 1 s. 2.

Certified
copies

7. A copy of any original document in the custody of the Archivist, certified under his hand and seal to be a true copy, is *prima facie* evidence of the authenticity and correctness of such document. R.S.O. 1970, c. 28, s. 7.

Regulations

8. The Lieutenant Governor in Council may make regulations,

- (a) respecting the administration of the Archives and the duties of the Archivist;
- (b) prescribing the matters that shall be transferred to the Archives under this Act and extending or reducing the period that shall elapse before any such matters are transferred to the Archives;

- (c) for the classification of archives and other matters in the Archives and the preparation of proper calendars, catalogues and indexes for the purpose of making such archives and other matters accessible for purposes of official, scientific and historical research;
- (d) directing the manner in which documents, papers, pamphlets or reports in the office of any member of the Executive Council or in any ministry or branch of the public service or the Assembly shall be disposed of from time to time and the class of documents, papers, pamphlets or reports that shall be deemed to be public archives. R.S.O. 1970, c. 28, s. 8; 1972, c. 1, ss. 2, 14 (2).

9. Nothing in this Act shall be taken or deemed to authorize the destruction or other disposition of any official document, paper, map, plan, report, memorandum or other matter in contravention of any order of the Assembly or of any express provision in any general or special Act of the Legislature. R.S.O. 1970, c. 28, s. 9.

Effect of
this Act

CHAPTER 28

Art Gallery of Ontario Act**1.** In this Act,Interpre-
tation

- (a) "Board" means the board of trustees of the Gallery;
- (b) "Gallery" means the Art Gallery of Ontario;
- (c) "member of the executive committee" means a trustee of the Board elected to the executive committee by the Board from among its members according to the by-laws of the Board. R.S.O. 1970, c. 29, s. 1; 1978, c. 74, s. 1.

2.—(1) The Art Gallery of Ontario is continued as a corporation without share capital and, subject to the provisions of this Act, has and may hold, possess and enjoy all the property, rights, powers and privileges that it now has, holds, possesses or enjoys, and, subject to the provisions of this Act, all by-laws, rules and regulations of The Art Gallery of Toronto now in force shall continue in force until amended or repealed.

Art Gallery
of Ontario
continued

(2) The Art Gallery of Ontario shall consist of the trustees for the time being of the Board. R.S.O. 1970, c. 29, s. 2.

Constitution
of cor-
poration**3.** The objects of the Gallery are,Objects of
Gallery

- (a) to cultivate and advance the cause of the visual arts in Ontario;
- (b) to conduct programs of education in the origin, development, appreciation and techniques of the visual arts;
- (c) to collect and exhibit works of art and displays and to maintain and operate a gallery and related facilities as required for this purpose; and
- (d) to stimulate the interest of the public in matters undertaken by the Gallery. R.S.O. 1970, c. 29, s. 3.

4.—(1) The affairs of the Gallery shall be managed and controlled by a board of trustees consisting of twenty-seven trustees as follows:

Board of
trustees

- (a) five persons appointed by The College of Founders of the Art Gallery of Ontario;
- (b) ten persons elected by the membership of the Gallery;
- (c) two persons appointed by the council of The Municipality of Metropolitan Toronto, one of whom shall be a person who is both a member of the council of the City of Toronto and a member of the council of The Municipality of Metropolitan Toronto; and
- (d) ten other persons appointed by the Lieutenant Governor in Council. R.S.O. 1970, c. 29, s. 4 (1); 1972, c. 72, s. 1; 1978, c. 74, s. 2 (1).

Term of
office

(2) A trustee appointed under clause (1) (a) or (c) or elected under clause (1) (b) shall hold office for a term of one year or until his successor is appointed or elected, as the case may be, and, subject to subsection (3), a trustee appointed under clause (1) (d) shall hold office for a term of three years or until his successor is appointed. 1978, c. 74, s. 2 (2).

Idem

(3) Of the trustees first appointed under clause (1) (d) after the coming into force of this section, three shall hold office for a term of one year, three for a term of two years and four for a term of three years, and each trustee shall hold office until his successor is appointed. 1972, c. 72, s. 2 (1), *part*.

Vacancies

(4) Where a vacancy occurs for any reason in the office of trustee, the vacancy may be filled,

- (a) in the case of a vacancy of a trustee appointed under clause (1) (a), by appointment by The College of Founders of the Art Gallery of Ontario;
- (b) in the case of a vacancy of a trustee elected under clause (1) (b), by appointment by the remaining trustees elected by the membership of the Gallery;
- (c) in the case of a vacancy of a trustee appointed under clause (1) (c), by appointment by the council of The Municipality of Metropolitan Toronto; and
- (d) in the case of a vacancy of a trustee appointed under clause (1) (d), by appointment by the Lieutenant Governor in Council,

and a person so appointed shall hold office for the remainder of the term of his predecessor except that, in the case of a vacancy

referred to in clause (1) (b), the person so appointed shall hold office until the next annual meeting of the membership of the Gallery. 1978, c. 74, s. 2 (3).

(5) A trustee appointed or elected under subsection (1) is eligible for reappointment or re-election, as the case may be, but no trustee appointed under clause (1) (d) is eligible for reappointment on the expiration of his second consecutive term until at least one year has elapsed from the expiration of such term. 1972, c. 72, s. 2 (1), *part*. Eligibility
for re-
election or
reappoint-
ment

(6) Notwithstanding subsection (5), a trustee who is a member of the executive committee may be reappointed on the expiration of his second consecutive term. 1978, c. 74, s. 2 (4). Term of
office

(7) The trustees shall annually elect from themselves a president and one or more vice-presidents. President,
vice-
presidents

(8) The president shall preside at all meetings of the Board and, in his absence, a vice-president shall preside, and, in the absence of the president and the vice-presidents, the members present at a meeting shall elect one of themselves to preside. R.S.O. 1970, c. 29, s. 4 (4, 5). Presiding
officer

5. The Board may,

Powers of
Board

(a) make by-laws, rules and regulations,

- (i) for the administration of its affairs, including the fixing of a quorum of the Board,
- (ii) governing the use by the public of the facilities, property and equipment of the Gallery and requiring the payment of fees for the admission of the public or any class thereof to such facilities and property, and prescribing the amounts of such fees,
- (iii) providing for membership in the Gallery and prescribing the qualifications and terms of membership and the fees to be paid therefor, and providing for and regulating meetings of members including the conduct of a mail ballot to decide any issue in respect of which the members are entitled to vote, subject to the requirement that the members be mailed information concerning the issue at least thirty days in advance of the final date for the return of mail ballots, and

- (iv) governing the election of trustees to the Board by the membership of the Gallery under clause 4 (1) (b);
- (b) appoint a Director of the Gallery;
- (c) appoint, promote, transfer or remove such officers, clerks and servants as it considers necessary from time to time for the proper conduct of the affairs of the Gallery and may delegate all or a part of the authority for so doing to the Director;
- (d) fix the number, duties, salaries, qualifications and tenure of office or employment and other emoluments of officers and members of the staff of the Gallery;
- (e) delegate to the Director the authority to fix the number, duties, salaries, qualifications and tenure of office or employment and other emoluments of the staff of the Gallery;
- (f) provide for the retirement and superannuation of persons mentioned in clauses (b) and (c);
- (g) appoint by resolution a trustee or trustees of the Board, or any other person or persons, to execute on behalf of the Board any documents and other instruments in writing and to affix the corporate seal of the Gallery thereto;
- (h) appoint committees from the trustees of the Board and such other committees as are considered desirable, and confer upon any such committees authority to act for the Board with respect to any matter or classes of matters;
- (i) enter into agreements with any association or organization to promote the objects of the Gallery;
- (j) enter into agreements with one or more universities, colleges or schools in areas consistent with the objects of the Gallery; and
- (k) generally conduct and manage the business and affairs of the Gallery. R.S.O. 1970, c. 29, s. 5; 1972, c. 72, s. 3; 1978, c. 74, s. 3.

Fiscal
year

6. The fiscal year of the Gallery shall extend from the 1st day of April of any year to the 31st day of March of the year next following. 1972, c. 72, s. 4, *revised*.

7. All trusts, gifts, devises and bequests that have heretofore been or shall hereafter be made to or in favour of or intended for The Art Gallery of Toronto shall be held and enjoyed by the Art Gallery of Ontario. R.S.O. 1970, c. 29, s. 7.

Trusts,
bequests,
etc.

8. The Gallery has, in addition to the powers, rights and privileges mentioned in section 26 of the *Interpretation Act*, power to purchase or otherwise acquire, take or receive by gift, bequest or devise and to hold and enjoy any estate or property whatsoever, whether real or personal, and to sell, grant, convey, mortgage, lease or otherwise dispose of the estate or property or any part thereof from time to time and as occasion may require, and to acquire other estate or property in addition thereto or in place thereof without licence in mortmain and without limitation as to the period of holding. R.S.O. 1970, c. 29, s. 8.

Property
R.S.O. 1980,
c. 219

9. In the event of a conflict between any provision of this Act and any provision of the *Corporations Act*, the provision of this Act prevails. 1972, c. 72, s. 5.

Conflict
R.S.O. 1980,
c. 95

10. The real and personal property vested in the Gallery and any lands and premises leased to and occupied by the Gallery are not liable to taxation for municipal or school purposes so long as they are actually used and occupied for the purposes of the Gallery. 1972, c. 72, s. 6.

Tax
exemption

11. Real property vested in the Gallery is not liable to be entered upon, used or taken by any corporation, except a municipal corporation, or by any person possessing the right of taking real property compulsorily for any purpose, and no power to expropriate real property conferred after the 8th day of July, 1966, shall extend to such property unless in the Act conferring the power it is made in express terms to apply thereto. R.S.O. 1970, c. 29, s. 10.

Property
of Gallery
not liable
to be expro-
priated

12. The property and the income, revenues, issues and profits of all property of the Gallery shall be applied solely to achieving the objects of the Gallery. R.S.O. 1970, c. 29, s. 11.

Application
of property

13. The Board may borrow money upon the credit of the Gallery, and may issue bonds, debentures or other securities of the Gallery, and may pledge or sell them for such sums or at such prices as may be considered expedient or necessary, and may hypothecate, mortgage or pledge all or any of the real or personal property, rights or powers of the Gallery to secure any bonds, debentures or other securities and any indebtedness of or money borrowed for the purposes of the Gallery. R.S.O. 1970, c. 29, s. 12.

Borrowing
powers

Investment
of funds

14. The funds of the Gallery not immediately required for its purposes and the proceeds of all property that come to the Gallery, subject to any trust or trusts affecting them, may be invested and reinvested in such investments as the Board considers proper. R.S.O. 1970, c. 29, s. 13.

Auditors
R.S.O. 1980,
c. 405

15. The Board shall appoint one or more auditors licensed under the *Public Accountancy Act* to audit the accounts and transactions of the Gallery at least once a year. 1972, c. 72, s. 7.

Annual
report, etc.

16.—(1) The Board shall submit to the Minister of Culture and Recreation an annual report and such other reports as he may request from time to time.

Tabling

(2) The Minister of Culture and Recreation shall submit the annual report to the Lieutenant Governor in Council and shall then lay such report before the Assembly if it is in session or, if not, at the next ensuing session. 1972, c. 72, s. 8; O. Reg. 53/76.

Trust
property

17. Nothing in this Act authorizes the Board to alienate, hypothecate, mortgage or pledge any real or personal property given, devised or bequeathed to it with a condition annexed to such gift that the property shall not be alienated, hypothecated, mortgaged or pledged. R.S.O. 1970, c. 29, s. 16.

Conveyance
of lands to
Toronto
authorized

18. Notwithstanding section 17 and the condition attached to a deed dated the 17th day of February, 1911, registered in the Registry Office for the Registry Division of Toronto as No. 23798S between Goldwin Larratt Smith, of the City of Toronto, Solicitor, surviving Executor and Trustee of the Last Will and Testament of Harriette Elizabeth Mann Smith, deceased, and James Frederick Smith and the said Goldwin Larratt Smith, of the same place, Solicitors, Executors and Trustees of the Last Will and Testament of Goldwin Smith, deceased, and the Art Museum of Toronto, the Gallery may convey, release, quit claim or otherwise dispose of to The Corporation of the City of Toronto the lands set forth in the Schedule. 1972, c. 72, s. 9.

SCHEDULE

ALL AND SINGULAR that certain parcel or tract of land and premises situate, lying and being in the City of Toronto, in The Municipality of Metropolitan Toronto (formerly in the County of York) and Province of Ontario being composed of:

Firstly: Part of Park Lot 13 in the First Concession from the Bay, in the original Township of York but now in the said City of Toronto, the said parcel of land being designated as Part 7 on a plan of survey deposited in the Registry Office for the Registry Division of Toronto as 63R-357.

Secondly: Part of Park Lots 13 and 14 in the First Concession from the Bay, in the original Township of York but now in the said City of Toronto, the said parcels of land being designated as Parts 13 and 14 on said plan of survey deposited in the Registry Office for the Registry Division of Toronto as 63R-357.

1972, c. 72, Sched.

CHAPTER 29

Artificial Insemination of Live Stock Act

1. In this Act,

Interpre-
tation

- (a) "artificial insemination" means the depositing of semen in the genital tract of a domestic female live stock animal by a means other than the natural method;
- (b) "Board" means the Agricultural Licensing and Registration Review Board under the *Ministry of Agriculture and Food Act*;
- (c) "Commissioner" means the Live Stock Commissioner;
- (d) "Committee" means The Artificial Insemination of Live Stock Advisory Committee;
- (e) "inseminating business" means a business in which one or more inseminators are engaged in artificial insemination;
- (f) "inseminator" means a person who engages in the process of artificial insemination;
- (g) "licence" means a licence under this Act;
- (h) "live stock" means cattle, goats, horses, sheep or swine;
- (i) "Minister" means the Minister of Agriculture and Food;
- (j) "regulations" means the regulations made under this Act;
- (k) "semen-producing business" means a business that maintains one or more live stock animals from which it offers semen for sale for the purpose of artificial insemination;
- (l) "semen processing supervisor" means a person who is responsible for the supervision of the

R.S.O. 1980,
c. 270

collection, processing or identification of semen for the purpose of artificial insemination. R.S.O. 1970, c. 30, s. 1; 1971, c. 50, s. 9 (1); 1973, c. 119, s. 2; 1978, c. 100, s. 4 (1).

Commis-
sioner
to be in
charge

2. The Commissioner is responsible to the Minister for the administration and enforcement of this Act. R.S.O. 1970, c. 30, s. 2.

Appoint-
ment of
Committee

3.—(1) The Lieutenant Governor in Council may appoint a committee consisting of not fewer than three persons to be known as The Artificial Insemination of Live Stock Advisory Committee. 1973, c. 119, s. 3.

Function of
Committee

(2) The Committee shall act in an advisory capacity to the Minister and the Commissioner.

Chairman
and vice-
chairman

(3) The Lieutenant Governor in Council may designate one of the members as chairman and one member as vice-chairman.

Allowances
to members

(4) The members of the Committee shall receive such allowances and expenses as the Lieutenant Governor in Council determines. R.S.O. 1970, c. 30, s. 3. (2-4).

Inspectors

4. The Lieutenant Governor in Council may appoint inspectors to carry out and enforce this Act and the regulations. R.S.O. 1970, c. 30, s. 4.

Certificate
of appoint-
ment

5.—(1) The production by the Commissioner or by an inspector of a certificate of his appointment purporting to be signed by the Minister is admissible in evidence as *prima facie* proof of his appointment without further proof of the signature or authority of the Minister.

Obstruction
of Commis-
sioner or
inspector

(2) No person shall hinder or obstruct the Commissioner or an inspector in the course of his duties, or furnish him with false information, or refuse to furnish him with information. R.S.O. 1970, c. 30, s. 5.

Licensing

6.—(1) No person shall commence or continue to engage in an inseminating business or a semen-producing business without a licence therefor from the Commissioner.

Only a
corporation
without
share capital
to hold a
licence

(2) No person, other than a corporation without share capital, shall hold a licence to engage in an inseminating business but nothing in this subsection affects a person who held such a licence prior to the 1st day of January, 1974.

(3) Semen-producing businesses are classified as follows: Classification of businesses

1. Class "A" semen-producing businesses consisting of semen-producing businesses that are corporations without share capital.
2. Class "B" semen-producing businesses consisting of semen-producing businesses that are not corporations without share capital.

(4) All semen from every semen-producing business shall be collected, identified and processed only under the supervision of semen processing supervisors who are in the employ and under the direction of a Class "A" semen-producing business. Collection of semen

(5) Every Class "A" semen-producing business shall on request provide services to any Class "B" semen-producing business on such terms and conditions as are reasonable having regard to all of the circumstances, unless the Class "B" semen-producing business is in default in respect of any account for the services of semen processing supervisors. 1973, c. 119, s. 4. Provision of services

7. No person shall commence or continue to act as an inseminator or semen processing supervisor without a licence therefor from the Commissioner. 1973, c. 119, s. 5. Licensing

8. A licence may be issued to engage in an inseminating business or to act as an inseminator throughout Ontario or in such part thereof as is determined by the Commissioner and specified in the licence. R.S.O. 1970, c. 30, s. 8. Territorial restrictions

9.—(1) The Commissioner shall issue a licence to a person who makes application therefor in accordance with this Act and the regulations and pays the prescribed fee unless, after a hearing, he is of opinion that, Licence issue

- (a) the applicant or, where the applicant is a corporation, its officers or directors, is or are not competent to carry on the operations that would be authorized by the licence;
- (b) the past conduct of the applicant or, where the applicant is a corporation, of its officers or directors, affords reasonable grounds for belief that the operations that would be authorized by the licence will not be carried on in accordance with law;

- (c) the applicant does not possess or will not have available all premises, facilities and equipment necessary to carry on the operations that would be authorized by the licence in accordance with this Act and the regulations; or
- (d) the applicant is not in a position to observe or carry out the provisions of this Act and the regulations.

Renewal

(2) Subject to section 10, the Commissioner shall renew a licence on application therefor by the licensee in accordance with this Act and the regulations and payment of the prescribed fee. 1971, c. 50, s. 9 (2), *part*.

Refusal to renew, suspension or cancellation

10.—(1) The Commissioner may refuse to renew or may suspend or cancel a licence if, after a hearing, he is of opinion that,

- (a) the premises, facilities and equipment used in the operations authorized by the licence do not comply with this Act and the regulations;
- (b) the licensee or, where the licensee is a corporation, any officer, director or servant thereof has contravened or has permitted any person under his control or direction in connection with the operations authorized by the licence to contravene any provision of this Act or the regulations or of any other Act or the regulations thereunder or of any law applying to the operations authorized by the licence and such contravention warrants such refusal to renew, suspension or cancellation of the licence; or
- (c) any other ground for refusal to renew, suspension or cancellation specified in the regulations exists.

Provisional suspension, etc.

(2) Notwithstanding subsection (1), the Commissioner, by notice to a licensee and without a hearing, may provisionally refuse to renew or suspend the licensee's licence where in the Commissioner's opinion it is necessary to do so for the immediate protection of the safety or health of any animal and the Commissioner so states in such notice giving his reasons therefor, and thereafter the Commissioner shall hold a hearing to determine whether renewal of the licence should be refused or whether the licence should be further suspended or cancelled under this Act and the regulations.

Continuation of licence pending renewal

(3) Subject to subsection (2), where, within the time prescribed or, if no time is prescribed, before expiry of his

licence, a licensee has applied for a renewal of his licence and has paid the prescribed fee and observed or carried out the provisions of this Act and the regulations, his existing licence shall be deemed to continue until he has received the decision of the Commissioner on his application for renewal. 1971, c. 50, s. 9 (2), *part*.

11.—(1) The notice of a hearing by the Commissioner under section 9 or 10 shall afford to the applicant or licensee a reasonable opportunity to show or to achieve compliance before the hearing with all lawful requirements for the issue or retention of the licence. Notice of hearing

(2) An applicant or licensee who is a party to proceedings in which the Commissioner holds a hearing shall be afforded an opportunity to examine before the hearing any written or documentary evidence that will be produced or any report the contents of which will be given in evidence at the hearing. Examination of documentary evidence
1971, c. 50, s. 9 (2), *part*.

12. Where the Commissioner has refused to issue or renew or has suspended or cancelled a licence pursuant to a hearing, he may, at any time of his own motion or on the application of the person who was the applicant or licensee, vary or rescind his decision, but the Commissioner shall not vary or rescind his decision adversely to the interests of any person without holding a rehearing to which such person is a party and may make such decision pursuant to such rehearing as he considers proper under this Act and the regulations. 1971, c. 50, s. 9 (2), *part*. Variation of decision by Commissioner

13.—(1) Where the Commissioner refuses to issue or renew or suspends or cancels a licence, the applicant or licensee may by written notice delivered to the Commissioner and filed with the Board within fifteen days after receipt of the decision of the Commissioner appeal to the Board. Appeal to Board

(2) The Board may extend the time for the giving of notice by an applicant or licensee under subsection (1) either before or after expiration of such time where it is satisfied that there are *prima facie* grounds for appeal and that there are reasonable grounds for applying for the extension. Extension of time for appeal

(3) Where an applicant or licensee appeals to the Board under this section, the Board shall hear the appeal by way of a hearing *de novo* to determine whether the licence should be issued, renewed, suspended or cancelled and may, after the hearing, confirm or alter the decision of the Commissioner or Disposal of appeal

direct the Commissioner to do any act he is authorized to do under this Act and as the Board considers proper and, for such purpose, the Board may substitute its opinion for that of the Commissioner.

Effect of
decision
pending
disposal
of appeal

(4) Notwithstanding that an applicant or licensee has appealed under this section from a decision of the Commissioner, unless the Commissioner otherwise directs, the decision of the Commissioner is effective until the appeal is disposed of. 1971, c. 50, s. 9 (2), *part*.

Parties

14.—(1) The Commissioner, the appellant and such other persons as the Board may specify are parties to the proceedings before the Board under this Act.

Members
making
decision not
to have
taken part
in investi-
gation, etc.

(2) Members of the Board assigned to render a decision after a hearing shall not have taken part prior to the hearing in any investigation or consideration of the subject-matter of the hearing and shall not communicate directly or indirectly in relation to the subject-matter of the hearing with any person or with any party or his representative except upon notice to and opportunity for all parties to participate, but such members may seek legal advice from an adviser independent from the parties and in such case the nature of the advice should be made known to the parties in order that they may make submissions as to the law.

Recording
of evidence

(3) The oral evidence taken before the Board at a hearing shall be recorded and, if so required, copies or a transcript thereof shall be furnished upon the same terms as in the Supreme Court.

Findings
of fact

(4) The findings of fact of the Board pursuant to a hearing shall be based exclusively on evidence admissible or matters that may be noticed under sections 15 and 16 of the *Statutory Powers Procedure Act*.

R.S.O. 1980,
c. 484

Only
members
at hearing
to participate
in decision

(5) No member of the Board shall participate in a decision of the Board pursuant to a hearing unless he was present throughout the hearing and heard the evidence and argument of the parties and, except with the consent of the parties, no decision of the Board shall be given unless all members so present participate in the decision. 1971, c. 50, s. 9 (2), *part*.

Appeal to
court

15.—(1) Any party to the hearing before the Board may appeal from the decision of the Board to the Divisional Court in accordance with the rules of court.

Minister
entitled to
be heard

(2) The Minister is entitled to be heard, by counsel or otherwise, upon the argument of an appeal under this section.

(3) The chairman of the Board shall file with the Registrar of the Supreme Court the record of the proceedings before the Board which, together with a transcript of the evidence before the Board, if it is not part of the Board's record, shall constitute the record in the appeal.

(4) An appeal under this section may be made on any question that is not a question of fact alone and the court may confirm or alter the decision of the Board or direct the Commissioner to do any act he is authorized to do under this Act or may refer the matter back to the Board for reconsideration by the Board as the court considers proper, and the court may substitute its opinion for that of the Commissioner or the Board.

(5) Notwithstanding that an applicant or licensee has appealed under this section from a decision of the Board, unless the Board otherwise directs, the decision of the Board is effective until the appeal is disposed of. 1971, c. 50, s. 9 (2), *part.*

16.—(1) No person shall sell or offer for sale any semen produced in Ontario from any male live stock animal unless the semen has been collected, identified and processed by a person licensed to engage in a semen-producing business under section 6.

(2) No person shall sell or offer for sale semen produced outside Ontario from any male live stock animal other than a person licensed to engage in an inseminating business under section 6. 1973, c. 119, s. 7.

17. The Lieutenant Governor in Council may make regulations,

- (a) prescribing the duties of the Committee;
- (b) providing for the issue, renewal, cancellation, suspension or revocation of or refusal to issue or renew licences, and prescribing the fees payable for licences or the renewal thereof;
- (c) prescribing grounds for the refusal to renew, suspension or cancellation of licences in addition to those grounds referred to in clauses 10 (1) (a) and (b);
- (d) prescribing forms and providing for their use;

- (e) prescribing requirements and minimum standards for any semen-producing business or any inseminating business;
- (f) requiring every semen-producing business to conduct such programs for the proving of the breeding value of any male live stock animals as the Commissioner may approve, and prohibiting use of semen from male live stock animals that have not taken part in any such program that is required or that have taken part in such a program but have not met the standards approved by the Commissioner for the program;
- (g) prescribing the terms and conditions under which semen may be obtained from any semen-producing business;
- (h) prescribing the places at which and the conditions under which semen may be frozen and stored;
- (i) prescribing the qualification and duties of inseminators and semen processing supervisors;
- (j) prescribing the powers and duties of the Commissioner and inspectors;
- (k) providing for grants to semen-producing businesses and inseminating businesses and prescribing the terms and conditions upon which such grants may be paid;
- (l) requiring the keeping of prescribed books and records and the furnishing of prescribed information by the operators of semen-producing businesses and inseminating businesses and by inseminators;
- (m) providing for the blood-typing of male live stock animals maintained by a semen-producing business and of male live stock animals from which semen is obtained by a semen-producing business;
- (n) providing for the verification of parentage of male live stock animals by blood-typing;
- (o) prescribing health standards of male live stock animals maintained by a semen-producing business and male live stock animals from which semen is obtained by a semen-producing business;

- (p) governing the advertising of semen and the furnishing of information to the public by any person licensed under this Act;
 - (q) exempting any person or class of persons from any or all of the provisions of this Act or the regulations;
 - (r) respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act.
- R.S.O. 1970, c. 30, s. 11; 1973, c. 119, s. 8.

18. Every person who contravenes any of the provisions of ^{Offences} this Act or the regulations is guilty of an offence and on conviction is liable to a fine of not less than \$50 and not more than \$200 for a first offence, and to a fine of not less than \$200 and not more than \$500 for a subsequent offence.

R.S.O. 1970, c. 30, s. 12.

CHAPTER 30

Arts Council Act

1. In this Act,

Interpre-
tation

- (a) "arts" means the arts of the theatre, literature, music, painting, sculpture, architecture or the graphic arts, and includes any other similar creative or interpretative activity;
- (b) "Council" means the Province of Ontario Council for the Arts;
- (c) "Minister" means the Minister of Culture and Recreation. R.S.O. 1970, c. 31, s. 1; O. Reg. 53/76.

2. The corporation known as the "Province of Ontario Council for the Arts", consisting of a chairman, a vice-chairman and ten other members, is continued. R.S.O. 1970, c. 31, s. 2.

Council
continued

3. The Lieutenant Governor in Council shall appoint the chairman, the vice-chairman and the other members of the Council, each of whom shall hold office for a term of three years, except that, of those first appointed, four shall be appointed for a term of one year, four for two years, and four for three years. R.S.O. 1970, c. 31, s. 3.

Appoint-
ment

4. The chairman, the vice-chairman and the other members of the Council may be paid reasonable travelling and living expenses incurred by them while away from their ordinary places of residence on the business of the Council. R.S.O. 1970, c. 31, s. 4.

Allowances
and expenses

5. A majority of the members of the Council constitutes a quorum whether or not a vacancy exists in the membership of the Council. R.S.O. 1970, c. 31, s. 5.

Quorum

6. It is the function of the Council and it has power to promote the study and enjoyment of and the production of works in the arts, and to such end may,

Objects
and
powers

- (a) assist, co-operate with and enlist the aid of organizations whose objects are similar to the objects of the Council;

(b) provide through appropriate organizations or otherwise for grants, scholarships or loans to persons in Ontario for study or research in the arts in Ontario or elsewhere or to persons in other provinces or territories of Canada or any other countries for study or research in the arts in Ontario;

(c) make awards to persons in Ontario for outstanding accomplishments in the arts. R.S.O. 1970, c. 31, s. 6.

By-laws

7. The Council may make by-laws regulating its proceedings and generally for the conduct and management of its activities. R.S.O. 1970, c. 31, s. 7.

Meetings

8. The Council shall meet at least four times a year in the City of Toronto on such days as are fixed by the Council, and at such other times and places as the Council considers advisable. R.S.O. 1970, c. 31, s. 8.

Funds

9.—(1) The moneys for the purposes of the Council shall be paid out of the moneys appropriated therefor by the Legislature.

Idem

(2) The Council may acquire money, securities or other property, real or personal, by gift, devise, bequest or otherwise, and may expend, administer or dispose of any such money, securities or other property in the promotion of its objects, subject to the terms, if any, upon which such money, securities or other property were given, devised, bequeathed or otherwise made payable to the Council. R.S.O. 1970, c. 31, s. 9.

Investment committee

10.—(1) The Lieutenant Governor in Council may establish an investment committee composed of the chairman of the Council, a member of the Council designated by the Council and a person appointed by the Lieutenant Governor in Council.

Duties

(2) The investment committee shall aid and advise the Council with respect to the investment of any of its moneys that remain in its hands from time to time. R.S.O. 1970, c. 31, s. 10.

Audit

11. The accounts and financial transactions of the Council shall be audited annually by the Provincial Auditor, and a report of the audit shall be made to the Council and to the Minister. R.S.O. 1970, c. 31, s. 11.

Annual report

12. The chairman of the Council shall annually file with the Minister a report upon the affairs of the Council, and the Minister shall submit the report to the Lieutenant Governor in Council and shall then lay the report before the Assembly if it is in session or, if not, at the next ensuing session. R.S.O. 1970, c. 31, s. 12.

CHAPTER 31

Assessment Act

1. In this Act,

Interpre-
tation

- (a) “assessment commissioner” means an assessment commissioner for a region as established by the regulations made under this Act;
- (b) “Assessment Review Court” and “Assessment Review Court established under this Act” mean the Assessment Review Court under the *Assessment Review Court Act*; R.S.O. 1980,
c. 32
- (c) “assessor” means the assessment commissioner and anyone acting under his authority;
- (d) “collector’s roll” means a roll prepared in accordance with the *Municipal Act*; R.S.O. 1980,
c. 302
- (e) “corporation assessment” means the assessment of land liable to taxation, of which a corporation is the owner or tenant, and business assessment of a corporation, but does not include the assessment of land that is assessed to a person other than a corporation as a tenant;
- (f) “county” includes a district;
- (g) “county council” includes a provisional county council;
- (h) “county court” includes a district court;
- (i) “county judge” includes a district judge;
- (j) “insurance company” means any company or fraternal society or other corporation transacting within Ontario any class of insurance to which the *Insurance Act* applies or is made to apply by any general or special Act of the Legislature; R.S.O. 1980,
c. 218
- (k) “land”, “real property” and “real estate” include,
- (i) land covered with water,

- (ii) all trees and underwood growing upon land,
- (iii) all mines, minerals, gas, oil, salt quarries and fossils in and under land,
- (iv) all buildings, or any part of any building, and all structures, machinery and fixtures erected or placed upon, in, over, under or affixed to land,
- (v) all structures and fixtures erected or placed upon, in, over, under or affixed to a highway, lane or other public communication or water, but not the rolling stock of a transportation system;
- (l) "loan company" means a loan corporation within the meaning of the *Loan and Trust Corporations Act*;
- (m) "locality" means a public school section, a separate school zone or a secondary school district that comprises or includes territory without municipal organization and includes the board of any of them;
- (n) "Minister" means the Minister of Revenue;
- (o) "Ministry" means the Ministry of Revenue;
- (p) "municipality" means a city, town, village or township, and includes a locality for the purpose of making any assessment required for the levying in a locality of a tax for school purposes;
- (q) "person" includes a corporation, partnership, bridge authority, agent or trustee, and the heirs, executors, administrators or other legal representatives of a person to whom the context can apply according to law;
- (r) "telephone company" includes a person or association of persons owning, controlling or operating a telephone system or line, but not a municipal corporation;
- (s) "tenant" includes an occupant and the person in possession other than the owner;
- (t) "trust company" means a trust company within the meaning of the *Loan and Trust Corporations Act*. R.S.O. 1970, c. 32, s. 1; 1971, c. 79, s. 1; 1972, c. 1, s. 89; 1972, c. 125, s. 1; 1972, c. 161, s. 1; 1974, c. 41, s. 1; 1980, c. 69, s. 1.

2.—(1) The Minister may make regulations,

Regulations

- (a) establishing assessment areas and assessment regions for assessment purposes ;
- (b) prescribing forms for the purposes of this Act ;
- (c) prescribing standards and procedures to be used for the purpose of equalizing assessments under this Act ;
- (d) prescribing the information and returns to be furnished by an assessment commissioner to any county or to any metropolitan or regional municipality.

(2) The Minister may appoint assessment commissioners for assessment regions and in the absence for any reason of any assessment commissioner, the Minister may appoint an acting assessment commissioner who, while so acting, has all the powers and duties of an assessment commissioner.

Assessment
commis-
sioner and
acting
assessment
commis-
sioner

(3) The appointment of an assessment commissioner shall be effective for the purposes of this Act upon the publication of a notice of his appointment in *The Ontario Gazette*.

Notice of
appointment

(4) An assessment commissioner appointed under subsection (2) shall be deemed for the purposes of this and every other Act to be the assessor and assessment commissioner of and for every municipality and locality in the assessment region for which he is appointed. R.S.O. 1970, c. 32, s. 2.

Deemed
assessor

3. All real property in Ontario is liable to assessment and taxation, subject to the following exemptions from taxation:

Property
assessable
and taxable,
exemptions

- 1. Lands or property belonging to Canada or any Province.
- 2. Property held in trust for a band or body of Indians.
- 3. Every place of worship and land used in connection therewith and every churchyard, cemetery or burying ground.

Lands of
Canada, etc.Indian
landsChurches,
etc.

- (a) Where land is acquired for the purpose of a cemetery or burying ground but is not immediately required for such purpose, it is not entitled to exemption from taxation under this paragraph until it has been enclosed and actually and *bona fide* required, used and occupied for the interment of the dead.

Public
educational
institutions

- (b) The exemption from taxation under this paragraph does not apply to lands rented or leased to a church or religious organization by any person other than another church or religious organization.

4. The buildings and grounds of and attached to or otherwise *bona fide* used in connection with and for the purposes of a university, high school, public or separate school, whether vested in a trustee or otherwise, so long as such buildings and grounds are actually used and occupied by such institution, but not if otherwise occupied.

- (a) The exemption from taxation under this paragraph does not apply to lands rented or leased to an educational institution mentioned in this paragraph by any person other than another such institution or a person already exempt from taxation in respect of the property rented or leased.

Philan-
thropic or
religious
seminaries

5. The buildings and grounds of and attached to or otherwise *bona fide* used in connection with and for the purposes of a seminary of learning maintained for philanthropic or religious purposes, the whole profits from which are devoted or applied to such purposes, but such grounds and buildings are exempt only while actually used and occupied by such seminary.

Educational
seminaries

6. The buildings and grounds not exceeding in the whole fifty acres of and attached to or otherwise *bona fide* used in connection with and for the purposes of a seminary of learning maintained for educational purposes, the whole profits from which are devoted or applied to such purposes, but such grounds and buildings are exempt only while actually used and occupied by such seminary, and such exemption does not extend to include any part of the lands of such a seminary that are used for farming or agricultural pursuits and are worked on shares with any other person, or if the annual or other crops, or any part thereof, from such lands are sold.

- (a) The exemption from taxation under this paragraph does not apply to lands rented or leased to a seminary of learning mentioned in this paragraph by any person other than another such seminary of learning or a person already exempt from taxation in respect of the property rented or leased.

7. Every public hospital receiving aid under the *Public Hospitals Act* with the land attached thereto, but not land of a public hospital when occupied by any person as tenant or lessee. Public hospitals
R.S.O. 1980,
c. 410
- (a) Land owned and used by such a public hospital for farming purposes shall be deemed attached to the hospital within the meaning of this paragraph, notwithstanding that it is separated therefrom by a highway.
8. Every highway, lane or other public communication and every public square, but not when occupied by a tenant or lessee other than a public commission. Highways,
etc.
9. Subject to section 26, the property belonging to any county or municipality or vested in or controlled by any public commission or local board as defined by the *Municipal Affairs Act*, wherever situate and whether occupied for the purposes thereof or unoccupied but not when occupied by a tenant or lessee who is liable to taxation, except property of a harbour commission used for the parking of vehicles for which a fee is charged. Municipal
property
R.S.O. 1980,
c. 303
10. Property owned, occupied and used solely and only by The Boy Scouts Association or The Canadian Girl Guides Association or by any provincial or local association or other local group in Ontario that is a member of either Association or is otherwise chartered or officially recognized by it. Boy Scouts
and Girl
Guides
11. Every industrial farm, house of industry, house of refuge, institution for the reformation of offenders or for the care of children, boys' and girls' home, or other similar institution conducted on philanthropic principles and not for the purpose of profit or gain, but only when the land is owned by the institution and occupied and used for the purposes of the institution. Industrial
farms, etc.
12. Land of an incorporated charitable institution organized for the relief of the poor, The Canadian Red Cross Society, St. John Ambulance Association, or any similar incorporated institution conducted on philanthropic principles and not for the purpose of profit or gain, that is supported, in part at least, by public funds, but only when the land is owned by the institution and occupied and used for the purposes of the institution. Charitable
institutions

Children's
aid societies
R.S.O. 1980,
c. 66

13. The property of a children's aid society discharging the functions of a children's aid society under the *Child Welfare Act*, whether held in the name of the society or in the name of a trustee or otherwise, if used exclusively for the purposes of and in connection with the society.

Scientific
or literary
institutions,
etc.

14. The property of every public library and other public institution, literary or scientific, and of every agricultural or horticultural society or association, to the extent of the actual occupation of such property for the purposes of the institution or society.

R.S.O. 1980,
c. 14

- (a) For the purposes of this paragraph, an agricultural society under the *Agricultural Societies Act* shall be deemed to be in actual occupation where the property of the society is rented and the rent is applied solely for the purposes of the society.

Battle sites

15. Land acquired by a society or association by reason of its being the site of any battle fought in any war, and maintained, preserved and kept open to the public in order to promote the spirit of patriotism.

Exhibition
buildings of
companies

16. The land of every company formed for the erection of exhibition buildings to the extent to which the council of the municipality in which such land is situate consents that it shall be exempt.

Machinery

17. All machinery and equipment used for manufacturing or farming purposes or for the purposes of a concentrator or smelter of ore or metals, including the foundations on which they rest, but not including machinery and equipment to the extent that it is used, intended or required for lighting, heating or other building purposes or machinery owned, operated or used by a transportation system or by a person having the right, authority or permission to construct, maintain or operate within Ontario in, under, above, on or through any highway, lane or other public communication, public place or public water, any structure or other thing, for the purposes of a bridge or transportation system, or for the purpose of conducting steam, heat, water, gas, oil, electricity or any property, substance or product capable of transportation, transmission or conveyance for the supply of water, light, heat, power or other service.

18. All machinery and equipment including the foundations on which they rest to the extent and in the proportion used for producing electric power for sale to the general public but not including any other buildings, structures, structural facilities or fixtures used in connection therewith. Machinery for producing electric power
19. One acre used for forestry purposes for every ten acres of the farm in one municipality under a single ownership but not more than twenty acres in all, and, where the total acreage consists of more than one separately assessed parcel, the assessor shall treat all such parcels as one parcel for the purpose of determining the exemptions under this paragraph and shall apportion the exemption to each parcel in the ratio of the acreage of each parcel used or partly used for forestry purposes to the total acreage of all parcels used or partly used for forestry purposes. Forestry purposes
20. The buildings, plant and machinery under mineral land and the machinery in or on such land only to the extent and in the proportion that such buildings, plant and machinery are used for obtaining minerals from the ground, and all minerals, other than diatomaceous earth, limestone, marl, peat, clay, building stone, stone for ornamental or decorative purposes, or non-auriferous sand or gravel, that are in, on or under land. Mineral land and minerals
21. All the machinery, plant and appliances, wherever situate, and all structures placed on, over, under or affixed to any highway, lane or other public communication, public place or water so long as such machinery, plant, appliances or structures are used by any telephone or telegraph company in connection with and as part of the operations of its telephone or telegraph business, and in this paragraph "telegraph company" includes a person or association of persons owning, controlling or operating a telegraph system or line, but does not include a municipal corporation owning, controlling or operating a telegraph system or line. R.S.O. 1970, c. 32, s. 3; 1972, c. 1, s. 104 (6); 1973, c. 26, s. 1; 1974, c. 41, s. 2. Certain property of telephone and telegraph companies

4. The council of any local municipality may pass by-laws exempting from taxes, other than school taxes and local improvement rates, the land of any religious institution named in the by-law, provided that the land is owned by the institution and occupied and used solely for recreational purposes, on such conditions as may be set out in the by-law. R.S.O. 1970, c. 32, s. 4. Exemption of religious institutions

Where land
ceases to be
used for
forestry
purposes

5. The council of a town, village or township may by by-law provide that, if any part of a farm exempted under paragraph 19 of section 3 ceases to be used for forestry purposes so as not to come within the purview of such paragraph, the assessor shall so report to the clerk and that the clerk shall forthwith amend the collector's roll by inserting therein,

- (a) the rates or taxes with which the farm would have been chargeable for the preceding three years if such part of the farm had not been exempt; or
- (b) such portion of such rates or taxes as the by-law may provide or the council may by resolution deem proper,

and such rates or taxes or portion thereof are collectable in accordance with such amended roll. R.S.O. 1970, c. 32, s. 5.

Exemption
of Navy
League

6. The council of any local municipality may pass by-laws exempting from taxes, other than school taxes and local improvement rates, the land belonging to and vested in the Navy League of Canada under such conditions as may be set out in the by-law, so long as the land is occupied and used solely for the purposes of carrying out the activities of the Ontario division of the Navy League. R.S.O. 1970, c. 32, s. 6.

Business
assessment

7.—(1) Irrespective of any assessment of land under this Act, every person occupying or using land for the purpose of, or in connection with, any business mentioned or described in this section, shall be assessed for a sum to be called "business assessment" to be computed by reference to the assessed value of the land so occupied or used by him as follows:

- (a) Every person carrying on the business of a distiller for a sum equal to 140 per cent of the assessed value of the land occupied or used by him for such business exclusive of any portion of such land occupied or used by him for the distilling of alcohol solely for industrial purposes and for a sum equal to 75 per cent of the assessed value as to such last-mentioned portion.
- (b) Every person carrying on the business of a whole-sale merchant, brewer, insurance company, loan company, trust company, express company carrying on business on or in connection with a railway or

steamboats or other vessels, land company, loaning land corporation, bank, banker or any other financial business for a sum equal to 75 per cent of the assessed value.

- (c) Every person carrying on the business of selling or distributing goods, wares and merchandise through a chain of more than five retail stores or shops in Ontario, directly or indirectly owned, controlled or operated by him, for a sum equal to 75 per cent of the assessed value of the land occupied or used by him in such business for a distribution premises, storage or warehouse for such goods, wares and merchandise, or for an office used in connection with such business.
- (d) Every person carrying on the business of a manufacturer, including the business of a flour miller, maltster, a concentrator or smelter of ore or metals, and the business of obtaining minerals from the ground, for a sum equal to 60 per cent of the assessed value, provided that a manufacturer is not liable to business assessment as a wholesale merchant by reason of his carrying on the business of selling by wholesale the goods of his own manufacture on such land.
- (e) Every person carrying on the business of selling goods or services through a chain of more than five stores, shops or outlets in Ontario, except a hotel or motel, for a sum equal to 50 per cent of the assessed value.
- (f) Every person,
 - (i) practising or carrying on the business of a barrister, solicitor, notary public, conveyancer, physician, surgeon, oculist, optometrist, ophthalmic dispenser, physiotherapist, podiatrist, aurist, dentist or veterinarian, or a civil, mining, consulting, mechanical or electrical engineer, surveyor, contractor, builder, advertising agent, private investigator, employment agent, accountant, assignee, auditor, osteopath, chiropractor, massagist, architect and every person carrying on a financial or commercial business or any other business as agent, or

(ii) carrying on the business of operating a radio or television broadcasting station, or

(iii) carrying on business as the publisher of a newspaper, or a photographer, lithographer, printer or publisher, or

(iv) carrying on the business of a department store,

for a sum equal to 50 per cent of the assessed value.

(g) Every person carrying on the business of,

(i) a telegraph or telephone company, or

(ii) a transportation system, other than one for the transportation or transmission or distribution by pipe line of crude oil or liquid or gaseous hydrocarbons or any product or by-product thereof or natural or manufactured gas or liquefied petroleum gas or any mixture or combination of the foregoing, or

(iii) the transmission of water or of steam, heat or electricity for the purposes of light, heat or power,

for a sum equal to 30 per cent of the assessed value of the land, except a highway, lane or other public communication or public place or water or private right of way, occupied or used by such person, exclusive of the value of any machinery, plant or appliances erected or placed upon, in, over, under or affixed to such land.

(h) Every person carrying on the business of transportation, transmitting or distributing by pipe line crude oil or liquid or gaseous hydrocarbons or any product or byproduct thereof or natural or manufactured gas or liquefied petroleum gas or any mixture or combination of the foregoing, for a sum equal to 30 per cent of the assessed value of the land excluding any pipe line liable to assessment under section 23 or 24.

(i) Every person carrying on the business of a car park, for a sum equal to 25 per cent of the assessed value.

- (j) Every person carrying on any business not specially mentioned before in this section, for a sum equal to 30 per cent of the assessed value. R.S.O. 1970, c. 32, s. 7 (1); 1974, c. 41, s. 3.

(2) Irrespective of any assessment of land or of any business assessment under this Act, every person who is liable to be assessed for business assessment and who provides without charge parking facilities for the vehicles of his employees shall be assessed for a sum (to be called business assessment) equal to 25 per cent of the assessed value of the land so used for employee parking that is reasonably necessary for such purpose as determined by the assessor, but such person shall not otherwise be assessable for business assessment in respect of such land. Employee parking lots

(3) Irrespective of any assessment of land or of any business assessment under this Act, every person carrying on business in one of a group of premises in which business is carried on where land for parking is made available by the owner of the land, or by anyone claiming under him, without charge to customers of or persons having business in one of such premises in such group in common with the customers of or persons having business with the occupants of other such premises in the group shall be assessed for a sum (to be called business assessment) equal to 25 per cent of the assessed value of that portion of the land made available for parking which is in the proportion to the whole of the land so made available that the assessed value of his premises is to the total assessed value of the premises occupied by the group exclusive of the land made available for parking. Shared parking lots

(4) Every person assessed for business assessment is liable for the payment of tax thereon and the tax assessed does not constitute a charge upon the land. Tax not a charge on land

(5) Where a manufacturer also carries on the business of a transportation system for the transportation or transmission or distribution by pipe line of crude oil or liquid or gaseous hydrocarbons or any product or byproduct thereof or natural or manufactured gas or any mixture or combination of the foregoing, he shall not be assessed for business assessment as a manufacturer in respect of such transportation system. Transportation of gas, etc. by pipe line by manufacturer

(6) Wherever in this section general words are used for the purpose of including any business that is not expressly mentioned, such general words shall be construed as including any business not expressly mentioned, whether or not such Effect of general words

business is of the same kind as or of a different kind from those expressly mentioned.

Persons
carrying on
more than
one class of
business

(7) Subject to subsection (8), no person shall be assessed in respect of the same premises under more than one of the clauses of subsection (1), and, where any person carries on more than one of the kinds of business mentioned in that subsection on the same premises, he shall be assessed by reference to the assessed value of the whole of the premises under that one of those clauses in which is included the kind of business that is the chief or preponderating business of those so carried on by him in or upon such premises.

Retailing
by manu-
facturer

(8) Where a manufacturer also carries on the business of a retail merchant, he shall be assessed as a retail merchant in respect of any premises or of any portion of any premises that are occupied and used by him solely and only for the purpose of such business.

Where
land used
partly for
business
and for
residence

(9) Where any person mentioned in subsection (1) occupies or uses land partly for the purpose of his business and partly for the purpose of a residence, he shall be assessed under this section only in respect of the part occupied mainly for the purpose of his business.

Farmers.
etc.

(10) No person occupying or using land as a rooming house, apartment house, farm, market garden, nursery or apiary or for the raising of animals for the production of fur is liable to business assessment in respect of such land.

(a) In this subsection, "rooming house" means any house or building or portion thereof in which the proprietor supplies lodging, for hire or gain, to other persons with or without meals in rooms furnished by the proprietor with necessary furnishings, and does not include a hotel, as defined in the *Hotel Registration of Guests Act*.

R.S.O. 1980,
c. 208

Minimum
assessment

(11) Where the amount of the assessment of any person assessable under this section would under the foregoing provisions be less than \$100 he shall be assessed for the sum of \$100. R.S.O. 1970, c. 32, s. 7 (2-11).

Assessment
of easements

8.—(1) Where an easement is appurtenant to any land, it shall be assessed in connection with and as part of the land at the added value it gives to the land as the dominant tenement, and the assessment of the land that, as the servient

tenement, is subject to the easement shall be reduced accordingly.

(2) Where land is laid out and used as a lane and is subject to such rights of way as prevent any beneficial use of it by the owner, it shall not be assessed separately, but its value shall be apportioned among the various parcels to which the right of way is appurtenant and shall be included in the assessment of such parcels and in such cases the assessor shall return the land so used as “Lane not assessed” ^{Lanes used as right of way}

(3) A restrictive covenant running with the land shall be deemed to be an easement within the meaning of this section. R.S.O. 1970, c. 32, s. 12. ^{Restrictive covenant}

9.—(1) An assessor, and any assistant of and designated by an assessor, upon producing proper identification, shall at all reasonable times and upon reasonable request be given free access to all land and to all parts of every building, structure, machinery and fixture erected or placed upon, in, over, under or affixed to the land, for the purpose of making a proper assessment thereof or of making a proper business assessment in respect thereof. R.S.O. 1970, c. 32, s. 13 (1). ^{Right of access}

(2) Every adult person present on land when any person referred to in subsection (1) visits the land in the performance of his duties shall upon request give to such person all the information in his knowledge that will assist such person to make a proper assessment of the land and every building, structure, machinery and fixture erected or placed upon, in, over, under or affixed to the land, to make a proper business assessment in respect thereof, and to obtain the information he requires with respect to any person whose name he is required to enter on the assessment roll or concerning whom he is required to obtain any information for the purpose of the census required by section 14. R.S.O. 1970, c. 32, s. 13 (2); 1974, c. 41, s. 4. ^{Information}

10.—(1) Where an assessor has visited land for the purpose of making a proper assessment thereof or a proper business assessment in respect thereof and has been unable to obtain all information necessary for such purpose, he may deliver or cause to be delivered or mailed to the address of any person, whether resident in the municipality or not, who is or may be assessed in respect of the land, a questionnaire or questionnaires in writing demanding information as prescribed by the regulations. R.S.O. 1970, c. 32, s. 14 (1); 1972, c. 125, s. 3. ^{Where assessor unable to obtain information by visit}

(2) Every person to whom any questionnaire is delivered or mailed shall, within ten days after the delivery or mailing, ^{Return of questionnaire}

enter thereon in the proper places all the information required thereby that is within his knowledge and sign and deliver or mail the questionnaires to the assessment commissioner or assessor whose name and address appear on the questionnaire.

Proviso

(3) Except as provided in this or any other section of this Act, no person may be required by an assessment commissioner, assessor or other person to furnish information with respect to the assessment of land, business or persons or with respect to the census. R.S.O. 1970, c. 32, s. 14 (2, 3).

Assessor
not bound
by returns

11. The assessor is not bound by any statement delivered under section 9 or 10 nor does it excuse him from making due inquiry to ascertain its correctness, and, notwithstanding any such statement, the assessor may assess every person for such amount as he believes to be just and correct, and may omit his name or any land that he claims to own or occupy, if the assessor has reason to believe that he is not entitled to be placed on the roll or to be assessed for such land. R.S.O. 1970, c. 32, s. 15.

Offence
for not
furnishing
information

12.—(1) Every person who, having been required to furnish information under section 9 or 10 makes default in delivering or furnishing it and any corporation that makes default in delivering the statement or notice mentioned in section 24 or 29, is guilty of an offence and on conviction is liable to a fine of not more than \$100 and an additional fine of \$10 for each day during which default continues. R.S.O. 1970, c. 32, s. 16 (1); 1974, c. 41, s. 5.

for false
statement

(2) Every person who knowingly states anything false in any such statement or in furnishing such information is guilty of an offence and on conviction is liable to a fine of not more than \$200.

for
obstructing
assessor, etc.

(3) Every person who wilfully obstructs or interferes with any person referred to in subsection 9 (1) in the performance of any of his duties or the exercise of his rights, powers and privileges under this Act is guilty of an offence and on conviction is liable to a fine of not more than \$200. R.S.O. 1970, c. 32, s. 16 (2, 3).

Assessment
roll content

13.—(1) The assessment commissioner shall cause to be prepared an assessment roll for each municipality in the region for which he is the assessment commissioner and, in such preparation, shall cause to be set down the following particulars:

1. A description of the property sufficient to identify it.

2. The name and surnames, in full, if they can be ascertained, of all persons who are liable to assessment in the municipality whether they are or are not resident in the municipality.
3. The amount assessable against each person opposite his name and where there is both owner and tenant, both names shall be entered on the roll.
4. Whether the person is an owner or tenant.
5. Number of acres, or other measures showing the extent of the land.
6. Market value of the parcel of land.
7. Amount of taxable land.
8. Value of land if liable for school rates only.
9. Value of land exempt from taxation.
10. Assessment for real property mentioned in subclauses 1 (1) (c) (i) and (iii) of the *Ontario Unconditional Grants Act*. R.S.O. 1980, c. 359
11. Percentage applied in determining the amount of business assessment under section 7.
12. Residential assessment.
13. Professional and commercial assessment.
14. Manufacturing and industrial assessment.
15. Farm assessment.
16. Corporations assessment, by inserting the letter "C" where applicable. 1972, c. 125, s. 4 (1).

(2) The following provisions shall be observed in the Preparation preparation of the assessment roll:

1. No assessment shall be made against the name of any deceased person, but, when the assessor is unable to ascertain the name of the person who should be assessed in lieu of the deceased person, he may enter, instead of such name, the words "Representatives of A.B., deceased" (*giving the name of the deceased person*).

2. Each subdivision shall be assessed separately, and every parcel of land (whether a whole subdivision or a portion thereof, or the whole or a portion of a building thereon) in the separate occupation of any person shall be separately assessed; provided that no portion of any building used or intended to be used as a residence shall be separately assessed unless it is a domestic establishment of two or more rooms in which the occupants usually sleep and prepare and serve meals.
3. Where a block of vacant land subdivided into lots is owned by the same person, it may be entered on the roll as so many acres of the original block or lot if the numbers and description of the lots into which it is subdivided are also entered on the roll. R.S.O. 1970, c. 32, s. 17 (2).

Apportion-
ment of
value of
multiple
occupancy

(3) The value of an assessment of an entire parcel of real property that is occupied by more than one person to be assessed under this Act shall be apportioned on the assessment roll among the occupants of the entire real property who are to be assessed in that proportion that the fair market rent of the space occupied by each occupant bears to the fair market rent of the entire parcel of real property so that the sum of the values apportioned to each occupant shall be equal to the value of the assessment of the entire parcel of real property. 1974, c. 41, s. 6.

Census

14. The assessment commissioner shall in each year, commencing on the Tuesday following the first Monday of September and ending on the 30th day of September, cause a census to be taken of the inhabitants of each municipality and locality in his region, which shall include school support and such other information as may be prescribed by the Lieutenant Governor in Council, and a list showing the school support of every inhabitant who is entitled to direct taxes for school support purposes for each municipality and locality shall be delivered by the assessment commissioner to the clerk of the municipality and to the secretary of each school board in the municipality and the locality on or before the second Tuesday of October of the year in which the census is taken and such census shall be the enumeration referred to in the *Municipal Elections Act*. 1972, c. 125, s. 6; 1973, c. 26, s. 2.

R.S.O. 1980,
c. 308

Alternative
period for
taking of
census

15. The Lieutenant Governor in Council may by regulation require that, in any part of Ontario where a census under section 14 is to be taken, the census, instead of being taken

during the period provided for in section 14, shall be taken during such other period in the year as is specified in the regulation. 1973, c. 26, s. 3.

16.—(1) Subject to section 17, land shall be assessed against the owner thereof and against the tenant to the extent of the assessed value of the portion of the land occupied by the tenant. 1974, c. 41, s. 7.

Land to be
assessed
against
owner and
tenant

(2) Land held by a trustee, guardian, executor or administrator shall be assessed against him as owner or tenant thereof, as the case may require, in the same manner as if he did not hold the land in a representative capacity, but the fact that he is a trustee, guardian, executor or administrator shall, if known, be stated in the roll, and such trustee, guardian, executor or administrator is only personally liable when and to such extent as he has property as such trustee, guardian, executor or administrator, available for payment of such taxes. R.S.O. 1970, c. 32, s. 24 (8).

Land held
by trustees,
etc.

17.—(1) Notwithstanding paragraph 1 of section 3, the tenant of land owned by the Crown where rent or any valuable consideration is paid in respect of such land and the owner of land in which the Crown has an interest and the tenant of such land where rent or any valuable consideration is paid in respect of such land shall be assessed in respect of the land in the same way as if the land was owned or the interest of the Crown was held by any other person.

Assessment
of Crown
lands

(a) For the purposes of this subsection,

- (i) “tenant”, in addition to its meaning under section 1, also includes any person who uses land belonging to the Crown as, or for the purposes of, or in connection with, his residence, irrespective of the relationship between him and the Crown with respect to such use,
- (ii) “residence” means a building or part of a building used as a domestic establishment and consisting of two or more rooms in which persons usually sleep and prepare and serve meals,
- (iii) “rent or any valuable consideration” shall be deemed to have been paid, in the case of an employee using land belonging to the Crown as a residence, where there is a reduction

in or deduction from the salary, wages, allowances or emoluments of the employee because of such use or where such use is taken into consideration in determining the employee's salary, wages, allowances or emoluments. R.S.O. 1970, c. 32, s. 26 (1).

Tenant's
interests
may be
sold

R.S.O. 1980,
c. 302

(2) In addition to the liability of every person assessed under subsection (1) to pay the taxes assessed against him, the interest in such land, if any, of every person other than the Crown is subject to the special lien on land for taxes given by the *Municipal Act* and is liable to be sold or vested in the municipality for arrears of taxes. R.S.O. 1970, c. 32, s. 26 (3); 1973, c. 26, s. 4 (2).

Application
to timber
licensees,
etc.

R.S.O. 1980,
c. 109

(3) This section does not apply to the interest of a timber licensee, lessee, grantee or concessionaire in a licence, lease or agreement issued under the *Crown Timber Act*, or to any right in timber cut or to be cut by the holder of, or party to, such licence, lease or agreement, or to such improvements or equipment as lumber camps, tote roads, telephone lines, hoists, logging railways, dams or booms that may be used only temporarily in connection with logging or lumbering operations conducted under such licence, lease or agreement. R.S.O. 1970, c. 32, s. 26 (4).

Assessment
of land

18.—(1) Subject to this section, land shall be assessed at its market value.

Market
value

(2) Subject to subsection (3), the market value of land assessed is the amount that the land might be expected to realize if sold in the open market by a willing seller to a willing buyer.

Farm
lands and
buildings

(3) For the purposes of subsection (2), in ascertaining the market value of farm lands used only for farm purposes by the owner thereof or used only for farm purposes by a tenant of such an owner and buildings thereon used solely for farm purposes, including the residence of the owner or tenant and of his employees and their families on the farm lands, consideration shall be given to the market value of such lands and buildings for farming purposes only, and in determining such market value consideration shall not be given to sales of lands and buildings to persons whose principal occupation is other than farming.

Where
owner dies
or retires

(4) Where the owner of farm lands entitled to the benefit of subsection (3) dies or retires, the market value of the lands

and buildings in respect of which subsection (3) applies shall be ascertained in the manner provided in subsection (3) in assessing such lands during the period the lands are held by him after his retirement or held by his estate after his death, but in no case beyond the two years immediately following the owner's death or retirement unless such lands are occupied by the surviving spouse of the deceased owner or by the retired owner. R.S.O. 1970, c. 32, s. 27 (1-4).

(5) When an appeal has been taken in respect of the assess-^{Effect of assessment determined on appeal}ment of farm lands mentioned in subsection (3) from the decision of the Assessment Review Court, the assessment as finally determined on appeal shall remain fixed in respect of the same lands and buildings for a period of two years after the year in respect of which such appeal was taken so long as the lands and buildings are owned by a person whose principal occupation is farming, but this subsection does not apply to prevent a different assessment of any farm lands in any year in which a different assessment generally is made of lands in the municipality in which the farm lands are situated. R.S.O. 1970, c. 32, s. 27 (5); 1973, c. 26, s. 5.

(6) Land that has been planted for forestation or re-^{Reforested lands}forestation purposes shall not be assessed at a greater value by reason only of such planting. R.S.O. 1970, c. 32, s. 27 (6).

(7) Land used as woodlands or orchards shall not be^{Woodlands or orchards} assessed at a greater value by reason of the presence of the trees thereon nor shall it be assessed at a lesser value by reason of the removal of the trees. 1971, c. 79, s. 3 (1).

(8) In subsection (7), "woodlands" means lands having not^{Interpretation, woodlands} less than 400 trees per acre of all sizes, or 300 trees measuring over two inches in diameter, or 200 trees measuring over five inches in diameter, or 100 trees measuring over eight inches in diameter (all such measurements to be taken at four and one-half feet from the ground) of one or more of the following kinds: white or Norway pine, white or Norway spruce, hemlock, tamarack, oak, ash, elm, hickory, basswood, tulip (white wood), black cherry, walnut, butternut, chestnut, hard maple, soft maple, cedar, sycamore, beech, black locust, or catalpa, or any other variety that may be designated by order in council, and which lands have been set apart by the owner with the object chiefly, but not necessarily solely, of fostering the growth of the trees thereon and that are fenced and not used for grazing purposes. R.S.O. 1970, c. 32, s. 27 (8).

Interpre-
tation.
orchards

(9) In subsection (7), "orchards" means lands having an area of at least one-half acre on which there are at least thirteen fruit trees and on which the number of fruit trees bears a proportion to the area of at least twenty-six fruit trees per acre, of one or more of the following kinds: apple, cherry, grape vine, peach, apricot, pear, plum, and such other fruit-producing trees, shrubs or vines as may be designated by order in council. 1971, c. 79, s. 3 (2).

Business
assessment

19.—(1) Every person occupying mineral land for the purpose of any business other than mining is liable to business assessment as provided by section 7.

Petroleum
mineral
rights

(2) Where in any deed or conveyance of lands heretofore or hereafter made, the petroleum mineral rights in the lands have been or are reserved to the grantor, such mineral rights shall be assessed at their market value. R.S.O. 1970, c. 32, s. 28 (2, 3).

Minerals
and surface
rights
becoming
vested in
one owner

(3) Where any estate in mines, minerals or mining rights has heretofore or may hereafter become severed from the estate in the surface rights of the same lands, whether by means of the original patent or lease from the Crown, or by any act of the patentee or lessee, his heirs, executors, administrators, successors or assigns, such estates after being so severed shall thereafter be and remain for all purposes of taxation and assessment separate estates notwithstanding the circumstances that the titles to such estates may thereafter be or become vested in one owner. R.S.O. 1970, c. 32, s. 28 (7).

Exemption
of farm
lands from
taxation for
certain
expenditures

20.—(1) In any municipality where lands held and used as farm lands only and in blocks of not less than five acres by any one person are not benefitted to as great an extent by the expenditure of moneys for and on account of public improvements, of the character hereinafter mentioned, in the municipality as other lands therein generally, the council shall annually before the 1st day of March pass a by-law declaring what part, if any, of such lands are exempt or partly exempt from taxation for the expenditures of the municipality incurred for waterworks, fire protection, garbage collection, sidewalks, pavements or sewers, or the lighting, oiling, tarring, treating for dust or watering of the streets, regard being had in determining such exemption to any advantage, direct or indirect, to such lands arising from such expenditures or any of them.

Notice

(2) The clerk shall forthwith notify by registered mail each person affected by the by-law as to what exemption is provided for his lands by the by-law.

(3) Any person complaining that the by-law does not exempt him or sufficiently exempt him or his lands from taxation may, within fourteen days after the mailing of the notice, notify the clerk of the municipality and the secretary of the Ontario Municipal Board of his intention to appeal against the provisions of the by-law, or any of them, to the Ontario Municipal Board which has power to alter or vary any or all of the provisions of the by-law and to determine the matter of complaint in accordance with the spirit and intent of this section. R.S.O. 1970, c. 32, s. 29 (1-3). ^{Appeal against by-law}

(4) If the council fails to pass the by-law before the 1st day of March, any person affected may, on or before the 21st day of March, notify the clerk of the municipality and the Ontario Municipal Board of his intention to appeal to the Ontario Municipal Board, and, upon such an appeal being taken, the Ontario Municipal Board may make an order declaring what part, if any, of the lands of the person appealing is exempt or partly exempt from taxation, and such order when published in *The Ontario Gazette* shall be deemed to be the by-law of the council as if passed under subsection (1) except that there shall be no appeal therefrom under subsection (3). 1972, c. 125, s. 8. ^{Appeal where no by-law passed}

(5) Nothing in this section shall be deemed to prevent or affect any right of appeal against an assessment. R.S.O. 1970, c. 32, s. 29 (5). ^{Assessment appeals not affected}

21.—(1) Section 20 applies to a police village so that farm lands situate therein may be exempted or partly exempted from taxation in the same manner, to the same extent, and for the purposes mentioned in that section. ^{Exemption of farm lands in police villages}

(2) The trustees or board of trustees of a police village have power to and shall pass by-laws as provided for in section 20 and forthwith after passing the by-law shall furnish a certified copy thereof to the clerk of the township or townships in which the police village or any part thereof is situate, and all notices to be given under that section shall be given to the trustees or board of trustees of the police village instead of to the clerk of the municipality. R.S.O. 1970, c. 32, s. 30 (1, 2). ^{Exemption by-law to be passed by trustees of police village}

(3) The trustees or board of trustees of a police village shall notify the clerk of the township or townships, in which the police village or any part thereof is situate, of any decision of the Ontario Municipal Board in respect of lands in the police village made under section 20 forthwith after it is received. R.S.O. 1970, c. 32, s. 30 (3); 1972, c. 125, s. 9 (1). ^{Notice of by-law and of decisions to be given to township clerk}

Application
of by-law
by township
council in
striking
rates

(4) The provisions of every by-law of a police village passed under the authority of this section, and of every decision of the Ontario Municipal Board with respect to such police village, shall be made applicable by the council of the township or townships in which the police village or any part thereof is situate in striking the rates to be levied in or for the purposes of the police village. R.S.O. 1970, c. 32, s. 30 (4); 1972, c. 125; s. 9 (2).

Agreement
for fixed
assessment
for golf
course

22.—(1) Any local municipality may enter into an agreement with the owner of a golf course for providing a fixed assessment for the land occupied as a golf course, but not including the part of the land actually occupied by any building or structure or such building or structure, to apply to taxation for general, school and special purposes, but not to apply to taxation for local improvements.

Duties of
municipal
officials:

(2) Where a golf course has a fixed assessment under an agreement under subsection (1),

assessment

(a) the golf course shall be assessed each year as if it did not have a fixed assessment;

taxes

(b) the treasurer shall calculate each year what the taxes would have been on the golf course if it did not have a fixed assessment;

record

(c) the treasurer shall keep a record of the difference between the taxes paid each year and the taxes that would have been paid if the golf course did not have a fixed assessment and shall debit the golf course with this amount each year during the term of the agreement and shall add to such debit on the 1st day of January in each year such interest as may be agreed upon on the aggregate amount of the debit on such date; and

distribution
of taxes

(d) the taxes paid on the fixed assessment shall be distributed among the bodies for which the municipality is required to levy in the proportion that the levy for each body bears to the total levy.

Agreement
to be
registered

(3) Every agreement shall be registered in the proper land registry office in the county in which the golf course or any part thereof is located.

Termination
of agree-
ment, as
to all of
lands

(4) When an agreement is for any reason terminated as to the whole of the lands in respect of which the fixed assessment is given, the owner shall,

- (a) pay to the municipality the amount debited against the golf course, including the amounts of interest debited in accordance with clause (2) (c); or
- (b) require the municipality to purchase the golf course for an amount equal to the fixed assessment.

(5) When an agreement is for any reason terminated as ^{as to part of lands} to a part of the land in respect of which the fixed assessment is given, the owner shall,

- (a) pay to the municipality that portion of the amount debited against the golf course, including the amounts of interest debited in accordance with clause (2) (c), that is attributable to the portion of the golf course in respect of which the agreement is terminated; or
- (b) require the municipality to purchase the part of the golf course in respect of which the agreement is terminated for an amount equal to the fixed assessment that is attributable to such part.

(6) Where a golf course has a fixed assessment under an agreement under subsection (1), the agreement shall terminate as to the whole or any part of the land in respect of which the fixed assessment is given when the whole or any such part thereof ceases to be occupied for the purposes of a golf course. ^{Agreement terminated when land ceases to be used as golf course}

(7) Any agreement may be terminated on the 31st day of December in any year upon the owner of the golf course giving six months notice of such termination in writing to the municipality. ^{Termination of agreement}

(8) Any dispute between the municipality and the owner of the golf course in relation to an agreement or this section shall be settled by the Ontario Municipal Board, and the decision of the Board is final. R.S.O. 1970, c. 32, s. 31. ^{Dispute}

23.—(1) The property by subclause 1 (k) (v) declared to be “land” that is owned by companies or persons supplying water, heat, light and power to municipalities and the inhabitants thereof, and companies and persons operating transportation systems and companies or persons distributing by pipe line natural gas, manufactured gas or liquefied petroleum gas or any mixture of any of them shall, whether situate or not situate upon a highway, street, road, lane or other public place, when and so long as in ^{Assessment of lands of water, heat, light, power and transportation companies}

actual use, be assessed at its market value in accordance with section 18.

Application
of section

(2) This section does not apply to a pipe line as defined in section 24.

Assessment
of works
extending
into two
or more
municipalities

(3) Where the property of any such company or person extends through two or more municipalities, the portion thereof in each municipality shall be separately assessed therein at its value as an integral part of the whole property. R.S.O. 1970, c. 32, s. 32 (1-3).

Assessment
of struc-
tures, rails,
etc., of
transporta-
tion system

(4) Notwithstanding any other provisions of this Act, the structures, substructures, superstructures, rails, ties, poles and wires of such a transportation system are liable to assessment and taxation in the same manner and to the same extent as those of a railway are under section 29 and not otherwise. R.S.O. 1970, c. 32, s. 32 (4); 1974, c. 41, s. 9.

Interpre-
tation

24.—(1) In this section,

- (a) “gas” means natural gas, manufactured gas or propane or any mixture of any of them;
- (b) “oil” means crude oil or liquid hydrocarbons or any product or by-product thereof;
- (c) “pipe line” means, subject to subsection (3), a pipe line for the transportation or transmission of gas that is designated by the owner as a transmission pipe line and a pipe line for the transportation or transmission of oil, and includes,
 - (i) all valves, couplings, cathodic protection apparatus, protective coatings and casings,
 - (ii) all haulage, labour, engineering and overheads in respect of such pipe line,
 - (iii) any section, part or branch of any pipe line,
 - (iv) any easement or right of way used by a pipe line company, and
 - (v) any franchise or franchise right,but does not include a pipe line or lines situate

wholly within an oil refinery, oil storage depot, oil bulk plant or oil pipe line terminal;

(d) "pipe line company" means every person, firm partnership, association or corporation owning or operating a pipe line all or any part of which is situate in Ontario. R.S.O. 1970, c. 32, s. 33 (1); 1973, c. 148, s. 1 (1).

(2) On or before the 1st day of October in each year, the pipe line company shall notify the assessment commissioner of each municipality of the age, length and diameter of all its transmission pipe lines located in the municipality as of the 1st day of September of that year. R.S.O. 1970, c. 32, s. 33 (2); 1974, c. 41, s. 10.

(3) All disputes as to whether or not a gas pipe line is a transmission pipe line shall, on the application of any interested party, be decided by the Ontario Energy Board and its decision is final.

(4) Notwithstanding any other provisions of this Act, but subject to subsection (6), a pipe line shall be assessed for taxation purposes at the following rates:

OIL TRANSMISSION PIPE LINE

Size of Pipe	Assessment per Foot of Length
3/4" to 1"	Nominal Inside Diameter \$ 1.20
1 1/4" to 1 1/2" . . .	" " " " 1.45
2" and 2 1/2"	" " " " 1.70
3"	" " " " 2.20
4" and 4 1/2"	" " " " 2.70
5" and 5 5/8"	" " " " 3.20
6" and 6 5/8"	" " " " 3.70
8"	" " " " 5.90
10"	" " " " 6.80
12"	" " " " 8.55
14"	Outside Diameter 9.20
16"	" " " " 10.35
18"	" " " " 11.45
20"	" " " " 12.45
22"	" " " " 13.75
24"	" " " " 14.80
26"	" " " " 15.70
28"	" " " " 16.75
30"	" " " " 17.70
32"	" " " " 18.65
34"	" " " " 19.50
36"	" " " " 20.35
38"	" " " " 21.35

FIELD AND GATHERING PIPE LINE

Size of Pipe		Assessment per Foot of Length
$\frac{3}{4}$ " to 1"	Nominal Inside Diameter	\$.90
$1\frac{1}{4}$ " to $1\frac{1}{2}$ "	" " "	1.09
2" and $2\frac{1}{2}$ "	" " "	1.31
3"	" " "	1.69
4" and $4\frac{1}{2}$ "	" " "	2.10
5" and $5\frac{5}{8}$ "	" " "	2.47
6" and $6\frac{5}{8}$ "	" " "	2.89
8"	" " "	4.65
10"	" " "	5.44
12"	" " "	6.90

GAS TRANSMISSION PIPE LINE

$\frac{3}{4}$ " to 1"	Nominal Inside Diameter	\$ 1.20
$1\frac{1}{4}$ " to $1\frac{1}{2}$ "	" " "	1.45
2" and $2\frac{1}{2}$ "	" " "	1.75
3"	" " "	2.25
4" and $4\frac{1}{2}$ "	" " "	2.80
5" and $5\frac{5}{8}$ "	" " "	3.30
6" and $6\frac{5}{8}$ "	" " "	3.85
8"	" " "	6.20
10"	" " "	7.25
12"	" " "	9.20
14"	Outside Diameter	10.00
16"	" "	11.40
18"	" "	12.75
20"	" "	14.00
22"	" "	15.65
24"	" "	17.00
26"	" "	18.25
28"	" "	19.70
30"	" "	21.10
32"	" "	22.50
34"	" "	23.80
36"	" "	25.15
38"	" "	26.70

R.S.O. 1970, c. 32, s. 33 (3, 4).

Adjustment of
assessment

(5) The assessment of pipe lines in each municipality determined under subsection (4) shall be adjusted by the application of the equalization factor in use in the municipality for the year 1978 pursuant to section 55. 1979, c. 88, s. 1.

Deprecia-
tion of
pipe lines

(6) A pipe line shall be depreciated at the rate of 5 per cent of the assessed value of the pipe line every three years from the year of installation, with a maximum depreciation of 55 per cent.

(7) A pipe line removed from one location and reinstalled in another location shall, where depreciation is applicable, continue to be depreciated at the foregoing rates as though remaining in its original location.

Pipe lines
removed
and installed
in another
location

(8) A pipe line that has been abandoned in any year ceases to be liable for assessment effective with the assessment next following the date of abandonment.

Pipe lines
abandoned

(9) Where a pipe line has been constructed and used for the transportation of oil or gas and ceases to be so used by reason of an order or regulation of an authority having jurisdiction in that behalf, other than the taxing authority, and an application to the proper authority for permission to abandon such pipe line has been refused, the assessment of such pipe line shall be reduced by 20 per cent so long as it is not used for the transportation of oil or gas. R.S.O. 1970, c. 32, s. 33 (6-9).

Reduction
of assess-
ment on
pipe line

(10) Where a pipe line is located on, in, under, along or across any highway or any lands, other than lands held in trust for a band or body of Indians, exempt from taxation under this or any special or general Act, the pipe line is nevertheless liable to assessment and taxation in accordance with this section. R.S.O. 1970, c. 32, s. 33 (10); 1973, c. 26, s. 7.

Liability
to taxation
of pipe line
on exempt
property

(11) Notwithstanding the other provisions of this Act or any other special or general Act, a pipe line liable for assessment and taxation under this section is not liable for assessment and taxation in any other manner for municipal purposes, including local improvements, property and business taxes, but all other land and buildings of the pipe line company liable for assessment and taxation under this or any other special or general Act continue to be so liable.

Tax
liability

(12) Where a pipe line extends through two or more municipalities, only the portion or portions thereof in each municipality are liable for assessment and taxation in that municipality.

Assessment
of pipe line
extending
into two or
more munici-
palities

(13) Where a pipe line is placed on a boundary between two municipalities or so near thereto as to be in some places on one side and in other places on the other side of the boundary line or on or in a road that lies between two municipalities, although it may deviate so as in some places to be wholly or partly within either of them, such pipe line shall be assessed in each municipality for one-half of the amount assessable against it under this section.

Pipe lines
on municipal
boundaries

(14) The assessment of a pipe line under this section shall be deemed to be real property assessment and the taxes

Real
property
assessment

payable by a pipe line company on the assessment of a pipe line under this section are a lien on all the lands of such company in the municipality.

Review
of rates

(15) The rates set out in subsection (4) shall be reviewed by the Minister in the year 1983 and every third year thereafter, and in any such year the Lieutenant Governor in Council may by regulation amend or re-enact the table of rates set out in subsection (4). R.S.O. 1970, c. 32, s. 33 (11-15).

Re-
enactment
of table
of rates

(16) Notwithstanding any provisions of this section to the contrary, where, as a result of making a proclamation under section 70, an assessment at market value is made of real property in any municipality or in territory without municipal organization comprised in a locality, the Lieutenant Governor in Council may by regulation,

- (a) prescribe rates in lieu of the rates in subsection (4) to be applied for the taxation of pipe lines in such municipality or territory;
- (b) where two or more pipe lines occupy the same right of way, designate the second and subsequent pipe lines and prescribe the percentage of the rates as so prescribed at which the second and subsequent pipe lines are assessable and taxable,

and the rates and percentages of rates as so prescribed shall apply in such municipality and territory in the year in which taxation is first levied on the basis of the new assessment at market value resulting from such a proclamation and in each year thereafter until such rates and percentages of rates are altered in accordance with subsection (17). 1972, c. 1, s. 1; 1973, c. 148, s. 1 (2); 1980, c. 69, s. 2 (1).

Review of
rates under
subs. (16)

(17) Any rates and percentages of rates prescribed under subsection (16) shall be reviewed by the Minister in the year 1980 and in every third year thereafter, and in any such year the Lieutenant Governor in Council may by regulation prescribe different rates and percentages of rates to be applicable for the purposes of this Act. 1980, c. 69, s. 2 (2).

Pipes, poles,
wires, etc.,
on boundary
lines

25. Where any structure, pipe, pole, wire or other property is erected or placed upon, in, over, under or affixed to any highway forming the boundary line between two local municipalities, or so that such structure, pipe, pole, wire or property is in some places on one side and in other places on the other side of the boundary line, or is on a highway forming the boundary line between two local municipalities although it may deviate so as in some places to be wholly or partly within either of them, it shall be assessed in each municipality for one-half of the whole assessable value in

both municipalities taken together. R.S.O. 1970, c. 32, s. 34; 1972, c. 125, s. 10.

26.—(1) In this section,

Inter-
pretation

(a) “commission” means the council of a municipal corporation, or a commission or trustees or other body, operating a public utility for or on behalf of the corporation and includes a municipal parking authority established under any general or special Act;

(b) “public utility” means a public utility as defined in the *Municipal Affairs Act* and includes parking facilities on land owned by a municipal corporation or by a municipal parking authority established under any general or special Act. R.S.O. 1970, c. 32, s. 35 (1); 1972, c. 1, s. 104 (6).

R.S.O. 1980,
c. 303

(2) For the purposes of this section, land and buildings owned by and vested in a municipal corporation and used for the purposes of a public utility shall be deemed to be owned by and vested in the commission operating the public utility. R.S.O. 1970, c. 32, s. 35 (2).

Property
deemed
vested in
commission

(3) Every commission shall pay in each year, to any municipality in which are situated lands or buildings owned by and vested in the commission, the total amount that all rates, except, subject to subsections (4) and (5), rates on business assessment, levied on the assessment for real property that is used as a basis for computing business assessment in that municipality for taxation purposes based on the assessed value of the land according to the value at which lands are assessed in the immediate vicinity and the assessed value of such buildings, would produce. R.S.O. 1970, c. 32, s. 35 (3); 1974, c. 41, s. 11.

Annual
payments
to municipi-
alities

(4) The commission shall also pay the amount that the current rates on business assessment on the lands or buildings referred to in subsection (3), not including any lands or buildings referred to in subsection (5), would produce based on the applicable percentage of the assessed value provided for in subsection (3).

Idem

(5) The commission shall also pay the amount that the current rates on business assessment would produce on lands and buildings owned or occupied by the commission for carrying on the business of selling by retail electrical goods, supplies or appliances.

Idem

(6) Notwithstanding section 63 of the *Local Improvement Act*, the commission shall pay local improvement assessments.

Local
improve-
ments
R.S.O. 1980,
c. 250

- Credit to municipal general fund (7) The payments received under subsections (3), (4) and (5) shall be credited by the municipality to the general fund of the municipality.
- Mode of assessment appeals (8) Subject to subsections (3), (4) and (10), the property on which payment is to be made under subsections (3), (4) and (5) shall be assessed according to this Act, and the provisions of this Act respecting appeals apply.
- Valuation to be included in equalizing assessment (9) The valuation of properties assessed under this section shall be included when equalizing assessment or apportioning levies for any purpose.
- Exemptions (10) In making the assessment referred to in subsection (8), there shall be no assessment of machinery whether fixed or not nor of the foundation on which it rests, works, structures other than buildings referred to in subsection (3) or (5), substructures, superstructures, except where a substructure or superstructure forms an integral part of a building referred to in subsection (3) or (5), rails, ties, poles, towers, lines nor of any of the things excepted from exemption from taxation by paragraph 17 of section 3 nor of other property, works or improvements not referred to in subsection (3) or (5), nor of an easement or the right or use of occupation or other interest in land not owned by the commission.
- Application (11) Nothing in this section exempts from taxation any part of any works, structures, substructures or superstructures when occupied by a tenant or lessee. R.S.O. 1970, c. 32, s. 35 (4-11).
- Municipal telephone companies
R.S.O. 1980, c. 302 (12) Telephone companies assessed under this section shall, in addition, be subject to the provisions of section 161 of the *Municipal Act*. 1972, c. 125, s. 11.
- Application of section (13) This section applies notwithstanding any other provision in this Act or any other general or special Act or any agreement heretofore made, and any agreement heretofore made under which a commission pays taxes, or money in lieu of taxes or for municipal services, is void.
- Collection of payments (14) The provisions of this Act and the *Municipal Act* with respect to the collection of taxes apply with necessary modifications to the payments required to be made by a commission under this section. R.S.O. 1970, c. 32, s. 35 (13, 14).
- Bridges and tunnels over international boundary line **27.** In the case of any bridge or tunnel liable to assessment that belongs to or is in the possession of any person or corporation, and that crosses a river forming the boundary

between Ontario and any other country or province, the part of such structure within Ontario shall be valued as an integral part of the whole and on the basis of the valuation of the whole, and at its actual cash value as it would be appraised upon a sale to another company possessing similar powers, rights and franchises and subject to similar conditions and burdens, but subject to the provisions and basis of assessment set forth in subsection 23 (1). R.S.O. 1970, c. 32, s. 36.

28. Any bridge or tunnel belonging to or in possession of any person or corporation between two municipalities in Ontario shall be valued as an integral part of the whole and on the basis of valuation of the whole. R.S.O. 1970, c. 32, s. 37. Bridges and tunnels between municipalities

29.—(1) Every railway company shall transmit annually on or before the 1st day of July to the assessment commissioner of every municipality or locality in which any part of the roadway or other real property of the company is situated, a statement showing, Railway companies to furnish statements

- (a) the quantity of land occupied by the roadway, and a description sufficient to identify what land is so occupied;
- (b) the vacant land owned by the company and not in actual use by the company;
- (c) the quantity of land occupied by the railway and being a part of a highway, street, road or other public land, but not being a highway, street or road that is merely crossed by the railway; and
- (d) the real property, other than that referred to in clause (a), (b) or (c), in actual use and occupation by the railway. 1974, c. 41, s. 12 (1).

(2) The land and property under subsection (1) shall be assessed as follows: Assessment of railway land

- (a) the roadway or right of way at the value at which lands are assessed in the immediate vicinity, but not including the structures, substructures and super-

structures, rails, ties, poles and other property thereon;

- (b) the vacant land, at its value as other vacant lands are assessed under this Act;
- (c) the structures, substructures, superstructures, rails, ties, poles and other property belonging to or used by the company (not including rolling stock and not including tunnels or bridges in, over, under or forming part of any highway) upon, in, over, under or affixed to any highway, street or road (not being a highway, street or road merely crossed by the line of railway) at their actual cash value as they would be appraised upon a sale to another company possessing similar powers, rights and franchises, regard being had to all circumstances adversely affecting the value including the non-user of such property;
- (d) the real property not designated in clauses (a), (b) and (c) in actual use and occupation by the company, at its actual cash value as it would be appraised upon a sale to another company possessing similar powers, rights and franchises. R.S.O. 1970, c. 32, s. 38 (2); 1974, c. 41, s. 12 (2).

Rails, ties,
poles, sub-
structures,
etc., not
assessable

(3) Notwithstanding any other provision in this Act, the structures, substructures, superstructures, rails, ties, poles, wires and other property on railway lands and used exclusively for railway purposes or incidental thereto (except stations, freight sheds, offices, warehouses, elevators, hotels, heating plants, round houses and machine, repair and other shops) shall not be assessed, but heating plants shall be exempt from assessment to the extent that the amount of steam or heat is used in relation to the cleaning or heating of rolling stock.

Notice of
assessment

(4) The assessment commissioner shall deliver at, or transmit by mail to, any station or office of the company a notice, addressed to the company, of the total amount at which he has assessed the land and property of the company in the municipality showing the amount of each description of property mentioned in the above statement of the company, and the statement and notice respectively shall be held to be the assessment return and notice of assessment required by sections 10 and 30.

Exemption
from other
assessments

(5) A railway company assessed under this section is exempt from assessment in any other manner for municipal purposes except for local improvements and except for

business assessment in respect of hotels under section 7 and business assessment upon the portion of a heating plant that is in the proportion that the amount of the heat produced by such plant that is sold for the purposes of a hotel or for a purpose not exclusively a railway purpose or incidental thereto bears to the total heat produced by such plant in any year. R.S.O. 1970, c. 32, s. 38 (3-5).

30.—(1) The assessment commissioner or an assessor, ^{Notice of assessment} shall, at least fourteen days prior to the completion of the assessment roll, deliver in the manner provided in this section to every person named therein a notice in a form prescribed by the regulations of the sum or sums for which such person has been assessed and such other particulars as are mentioned in the prescribed form, and shall enter in the roll opposite the name of the person the date of delivery of the notice or shall make one or more certificates to be attached to the roll or to any part of the roll certifying the date or dates upon which the notices were delivered, and the entry, certificate and certificates are *prima facie* evidence of the delivery. R.S.O. 1970, c. 32, s. 40 (1); 1972, c. 125, s. 12; 1974, c. 41, s. 13.

(2) When the person assessed is resident in the municipality, the notice shall be delivered by leaving it at his residence or place of business or by mailing it addressed to him at his residence or place of business. ^{Delivery of notice, residents}

(3) When the person assessed is not resident in the municipality, the notice shall be delivered by mailing it addressed to him at his last known address. ^{non-residents}

(4) When a person assessed furnishes the assessment commissioner with a notice in writing giving the address to which the notice of assessment may be delivered to him and requesting that the notice be delivered to such address, the notice of assessment shall be so delivered, and such notice stands until revoked in writing. ^{Notice of address}

(5) The assessment commissioner or an assessor shall deliver with the notice required by subsection (1), or publish in a newspaper having general circulation in the municipality in which the land assessed is situated, a notice setting forth, ^{Information notice}

(a) the last day for appealing the assessment;

- (b) the times and places where the assessment roll may be examined and discussed with the assessment commissioner or an assessor;
- (c) any significant and unusual change in the amount of the assessment; and
- (d) any other information which, in the opinion of the assessment commissioner, is desirable,

but any failure to send such notice does not affect the validity of any assessment. R.S.O. 1970, c. 32, s. 40 (2-5).

Correction
of errors, etc.,
in assess-
ment roll

31. Notwithstanding the delivery or transmission of any notice provided for by section 30, the assessment commissioner at any time before the time fixed for the return of the assessment roll may correct any defect, error, omission or misstatement in any assessment and alter the roll accordingly, and he shall do so upon notice being given to him of any defect, error, omission or misstatement, and, upon so correcting or altering any assessment, he shall deliver or transmit to the person assessed an amended notice. R.S.O. 1970, c. 32, s. 41; 1974, c. 41, s. 14.

Assessment
omitted
from
collector's
roll

32.—(1) If any land liable to assessment or any business assessment, has been in whole or in part omitted from the collector's roll for the current year or for any part or all of either or both of the next two preceding years, and no taxes have been levied for the assessment omitted, the assessor shall make any assessment necessary to rectify the omission and the clerk of the municipality upon notification thereof shall enter the assessment on the collector's roll and such taxes as would have been payable if the assessment had not been omitted shall be levied and collected.

Interpre-
tation

(2) For the purposes of this section, "omitted" includes the invalidation or setting aside of an assessment by any court or assessment tribunal on any ground except that the land is not liable to taxation. 1974, c. 41, s. 15, *part*.

Supple-
mentary
assessments
to be added
to collector's
roll

33. If, after notices of assessment have been given under section 30 and before the last day of the taxation year for which taxes are levied on the assessment referred to in the notices,

- (a) an increase in value occurs which results from the erection, alteration, enlargement or improvement of any building, structure, machinery, equipment or fixture or any portion thereof that commences to be used for any purpose;

- (b) land or a portion thereof ceases to be exempt from taxation or to be used for the purpose set forth in subsection 18 (3);
- (c) a person commences to occupy or use land for the purpose of, or in connection with, any business mentioned or described in section 7;
- (d) a pipeline increases in value because it ceases to be entitled to the reduction provided for in subsection 24 (9),

the assessor shall make such further assessment as may be necessary to reflect the change, and the clerk of the municipality upon notification thereof shall enter a supplementary assessment on the collector's roll and the amount of taxes to be levied thereon shall be the amount of taxes that would have been levied for the portion of such taxation year left remaining after the change occurred if the assessment had been made in the usual way. 1974, c. 41, s. 15, *part*.

34.—(1) A person entitled to a notice of assessment under section 31 or assessed under section 32 or 33 shall be notified and be entitled to appeal as if the assessment had been regularly made and the assessment roll was returned fourteen days after the day of mailing of the notice of assessment. Notice
and appeal

(2) Where a business assessment is made under section 32 or 33, the real property with respect to which such business assessment is computed is, from the time the land is occupied or used for the purpose of or in connection with any business mentioned in section 7, liable to taxation at the rate levied under clause 7 (3) (b) of the *Ontario Unconditional Grants Act*, and the clerk of the municipality shall amend the collector's roll accordingly. Change
in tax
rate

R.S.O. 1980.
c. 359

(3) When the collector's roll is altered under section 32 or 33 and taxes are levied thereon, Distribution

- (a) the amount thereof that, if the taxes had been levied in the usual way, would have been paid to any body for which the council is required by law to levy rates or raise money shall be set up in the accounts of the municipality as a credit accruing to that body in the same proportion as the levy for that body bears to the total levy.

R.S.O. 1980,
c. 129

- (b) notwithstanding the *Education Act*, the amount credited to a body under clause (a) shall be paid over to such body not later than the 31st day of December in the year in which it was levied and shall be used by such body to reduce the levy for the purposes of such body in the next succeeding year, and, if the amount or any portion thereof is not paid over to such body on or before the 31st day of December in the year in which it was levied, the municipality so in default shall, if demanded by such body, pay interest thereon to such body at the rate of 6 per cent per annum from such date until payment is made;
- (c) the balance remaining after the setting up of all credits as provided in clause (a) shall be taken into the general funds of the municipality;
- (d) notwithstanding clauses (a) and (b), where in a secondary school district a municipality is required under an agreement or an award of a board of arbitrators or the Ontario Municipal Board to pay over to the secondary school board a fixed annual percentage of the costs of the erection or maintenance of a school or schools, it is not necessary for the municipality to pay over an amount to the secondary school board as required by clauses (a) and (b), but the municipality shall set up a credit of the amounts that would but for this clause have been paid over to the board, which credit shall be used to reduce the levy for the board in the following year;
- (e) the treasurer shall deliver to each of the bodies entitled to a credit under clause (a), on or before the 31st day of December in the year in which the taxes were levied, a statement sufficient to enable the body to determine the correctness of the credit. 1974, c. 41, s. 15, *part.*

Time for
yearly
assessment
and return
of roll

35.—(1) Except as provided in section 32 or 33, in every municipality the assessment shall be made annually commencing in the year 1974 and at any time between the 1st day of January and the third Tuesday following the 1st day of December; and the assessment roll of the municipality shall be returned to the clerk not later than the third Tuesday following the 1st day of December in the year in which the assessment is made.

Extension
of time for
return of
roll

(2) Where in any year it appears that the assessment roll of a municipality or the assessment roll of an area within a

municipality will not be or has not been returned to the clerk of the municipality as provided in subsection (1), the Minister may extend the time for the return of the assessment roll for such period as appears necessary.

(3) Where the Minister extends the time for the return of the assessment roll under subsection (2), he shall cause a notice of the extension, specifying the date to which the time has been extended and the final date for commencing an appeal to the Assessment Review Court, to be published in a daily or weekly newspaper that in the opinion of the Minister has such circulation within the municipality as to provide reasonable notice to persons affected thereby. 1974, c. 41, s. 16, *part*. Notice of extension

(4) As soon as practicable after the return of the assessment roll in a municipality, the Assessment Review Court shall hear and dispose of all appeals of assessments for the year for which the roll is returned, and when the appeals have been disposed of by the Assessment Review Court, the regional registrar of the Assessment Review Court shall certify the assessment roll to be the last revised assessment roll of the municipality for the year for which the assessments thereon are made. 1975 (2nd Sess.), c. 2, s. 1. Time for disposing of appeals

36.—(1) The yearly assessment roll of a municipality last returned to the clerk, when corrected and revised by the Assessment Review Court and certified by the regional registrar, is for all purposes the last revised assessment roll of the municipality. Last revised assessment roll

(2) Where in a municipality no appeals are made to the Assessment Review Court and the time for appealing has elapsed, the assessment roll shall be presented by the clerk to the regional registrar and if he is satisfied that there have been no such appeals he shall certify the roll and the roll, as so certified, is for all purposes the last revised assessment roll of the municipality. Last revised assessment roll where no appeals made

(3) In every municipality the rate of taxation for each year shall be fixed and levied on the assessment taken in the preceding year according to the last revised assessment roll thereof. Taxation to be levied on last revised assessment roll

(4) Notwithstanding subsection (3), the council of a municipality may fix and levy the rate of taxation on the Taxation on assessment roll as returned

assessment taken in the preceding year according to the assessment roll as returned.

Rights of
appeal
preserved

(5) Nothing in this section in any way deprives any person of any right of appeal provided for in this Act, which may be exercised and the appeal proceeded with in accordance with this Act, notwithstanding that the assessment roll has been certified by the Assessment Review Court and becomes the last revised assessment roll.

Adjustment
of taxes as
result of
appeal

(6) Where, as the result of an appeal or of an action or other proceeding in any court, any assessment is added, reduced, increased or otherwise altered, the taxes levied and payable with respect to such assessment shall be adjusted accordingly and, if the taxes levied have been paid, any overpayment shall be refunded by the municipality.

Special Act
superseded

(7) Where a special Act conflicts with this section, this section prevails. R.S.O. 1970, c. 32, s. 47.

Assessment
of annexed
areas

37.—(1) Where any land is detached from one municipality and annexed to another municipality after the return of the assessment roll of the latter municipality, the council of the latter municipality shall pass a by-law in the year in which taxation is to be levied on that assessment roll adopting the assessments of the lands annexed, as last revised while they were part of the first-mentioned municipality, as the basis of the assessment of such lands for taxation in that year by the municipality to which the lands are annexed.

Notice of
assessment
and appeals

(2) The clerk of the municipality, forthwith after the passing of the by-law under subsection (1), shall deliver or send by registered mail to every person assessed in respect of the lands annexed a notice setting out the amount of the assessment, and the same rights in respect of appeal apply as if the assessment had been made in the usual way notwithstanding that the person assessed did not appeal, or not withstanding the disposition of any appeal taken, as the case may be, in respect of the assessment while the lands were a part of the municipality from which they became detached.

Application
where
annexation
order
provides for
assessment

(3) This section does not apply where an annexation order otherwise provides for the assessment of the lands annexed by such order. R.S.O. 1970, c. 32, s. 48.

38.—(1) Upon completion of the assessment roll, the assessment commissioner shall attach thereto his affidavit or solemn affirmation in Form 1 attesting to his compliance with this Act in the preparation of the assessment roll. Making affidavit

(2) The assessment commissioner shall on or before the day fixed for the return of the assessment roll deliver it to the clerk of the municipality completed, with the affidavit or affirmation attached, and the clerk shall immediately upon receipt of the roll file it in his office and it shall be open to inspection during office hours. Roll to be delivered to clerk

(3) The omission to attach to the assessment roll the affidavit or affirmation required by subsection (1) does not invalidate the roll. Omission to attach affidavit R.S.O. 1970, c. 32, s. 49.

39.—(1) Any person complaining of an error or omission in regard to himself, as having been wrongly inserted in or omitted from the roll or as having been assessed too low or too high by the assessor in the roll, may personally or by his agent give notice in writing to the regional registrar of the Assessment Review Court that he considers himself aggrieved for any or all of such causes, and shall give a name and address where notices can be served by the regional registrar as provided by subsection (4). 1971, c. 79, s. 10, *part*; 1974, c. 41, s. 17 (1). Notice of complaint, by person aggrieved

(2) Any person including a municipality or a school board may, within the time limited by subsection (3), give notice in writing, by other person

(a) to the regional registrar of the Assessment Review Court; and

(b) to any other person whose assessment is complained of,

complaining that any other person has been assessed too low or too high or has been wrongly inserted or omitted from the roll and shall give a name and address where notices can be served on him and on any such other person by the regional registrar as provided by subsection (4), and the matter shall be decided in the same manner as complaints by a person assessed with regard to his own assessment. 1971, c. 79, s. 10, *part*.

Time for
giving
notice

(3) A notice of complaint,

- (a) to the regional registrar under subsection (1) or (2), shall be mailed to him by ordinary mail; and
- (b) to any other person whose assessment is complained of, shall be mailed to him by registered mail,

within twenty-one days after the day upon which the roll is required by law to be returned, or within twenty-one days after the return of the roll in case the roll is not returned within the time fixed for that purpose, and the regional registrar shall immediately transmit a copy of all notices received by him to the assessment commissioner. 1971, c. 79, s. 10, *part*; 1974, c. 41, s. 17 (2).

Notice of
hearing

(4) The regional registrar shall give to the assessment commissioner and the clerk of the municipality and to all persons complaining and all persons whose assessment is complained of notice of any hearing by the Assessment Review Court at least fourteen days before the date fixed for the hearing in the following form:

Take notice that the Assessment Review Court will sit at
.....on the.....day of.....
in the matter of a complaint.
The complaint has been made by.....
and states that.....

(Signed)

Regional Registrar.

1971, c. 79, s. 10, *part*.

Service of
notice

(5) The regional registrar of the Assessment Review Court shall cause any notice under this section to be left at the person's residence or place of business or to be sent by mail addressed thereto.

Preliminary
explanation

(6) Where value is a ground of a complaint that is proceeded with, at the commencement of the hearing of the complaint by the court, the assessor shall explain the manner in which the assessment has been arrived at and the complainant shall explain the nature of his complaint.

(7) After hearing the assessor and the complainant where <sup>Determina-
tion by court</sup> required and any evidence adduced, the court shall determine the matter and in all complaints involving value shall determine the amount of the assessment.

(8) Where the court is requested during the hearing <sup>Written
reasons</sup> by a party to the proceedings to deliver reasons for its decision, the court shall give written reasons for its decision.

(9) Where at any time during the hearing by the <sup>Adding
party</sup> court it appears that any other person should be a party to the hearing, the court shall adjourn in order to give such person notice of the hearing.

(10) If any party fails to appear, either in person or <sup>When to
proceed
ex parte</sup> by an agent, the court may proceed *ex parte*.

(11) Where it appears that there are palpable errors <sup>Correction
of errors</sup> in the roll of any municipality that need correction, the court may at any time during its sitting correct the roll if no alteration of assessed values is involved, and, if any alteration of assessed value is necessary, the court may extend the time for making complaints for ten days from a day named by the court and may then meet and determine the additional matter complained of, and the assessor may be or may be directed by the court to be the complainant for such purpose.

(12) The decision of the Assessment Review Court shall <sup>Alteration
of roll by
clerk</sup> be forwarded by the regional registrar to the clerk of each municipality and the clerk of the municipality shall forthwith,

(a) alter the assessment roll in accordance with the decisions of the court and shall write his name or initials against every alteration, and shall complete the roll by totalling the amounts of the assessments therein and inserting such total; or

(b) where data processing equipment is used, may, as an alternative to complying with clause (a), forthwith cause to be prepared a new assessment roll which shall include all changes made by the court, and shall initial each entry in which a change has been made by the court and shall complete the roll by totalling the amounts of the assessments therein and inserting such total. R.S.O. 1970, c. 32, s. 52 (6-13).

Notice of
decision

(13) When the Assessment Review Court has heard and decided a complaint, the regional registrar shall forthwith after the receipt of the record of the decision from the clerk of the court cause notice thereof to be given,

(a) where the complaint was as to the amount of the assessment, by registered mail; and

(b) in the case of all other complaints, by ordinary mail,

to the persons to whom notice of the hearing of such complaint was given, and such notice shall state thereon that such decision may be appealed to the county judge within twenty-one days of the mailing of the notice and shall also contain a list of the persons to whom notice was given under subsection (4). R.S.O. 1970, c. 32, s. 52 (14); 1974, c. 41, s. 17 (4).

Notice where
assessment
\$50,000 or
more

(14) When the Assessment Review Court has heard and decided a complaint and the assessment is in an amount of \$50,000 or more or has been increased by the Assessment Review Court to an amount of \$50,000 or more, the notice under subsection (13) shall also state thereon that, if no appeal is taken to the county judge, such decision may be appealed to the Ontario Municipal Board within twenty-one days of the mailing of such notice. R.S.O. 1970, c. 32, s. 52 (15).

Roll to be
binding not-
withstanding
errors in it
or in notice
sent to
persons
assessed

40. The roll as finally revised by the Assessment Review Court and certified by the regional registrar shall, subject to subsections 36 (5) and (6), be valid and bind all parties concerned, notwithstanding any defect or error committed in or with regard to such roll, or any defect, error or misstatement in the notice required by section 30 or the omission to deliver or transmit such notice, provided that the provisions of this section in so far as they relate to the omission to deliver or transmit such notice do not apply to any person who has given the assessment commissioner the notice provided for in subsection 30 (4). R.S.O. 1970, c. 32, s. 53.

Copy of
roll duly
certified
to be
evidence

41. A copy of any assessment roll, or portion of any assessment roll, written or printed, and certified to be a true copy by the clerk of the municipality, shall be received as *prima facie* evidence in any court without proof of the signature or the production of the original assessment roll of which such certified copy purports to be a copy, or a part thereof. R.S.O. 1970, c. 32, s. 54.

42.—(1) An appeal to the county judge lies, at the instance of the municipal corporation or a school board, or at the instance of the assessment commissioner, or at the instance of any person assessed or of any municipal elector of the municipality, not only against a decision of the Assessment Review Court on an appeal to that court, but also against any omission, neglect or refusal of that court to hear or decide an appeal. R.S.O. 1970, c. 32, s. 55 (1). Appeal to
county judge

(2) A notice of appeal to the county judge shall be sent by registered mail, within twenty-one days of the mailing of the notice under subsection 39 (13), by the party appealing to the regional registrar who shall forthwith mail a copy of such notice to the persons to whom notice was given under such subsection (13). 1974, c. 41, s. 18 (1). Notice of
appeal

(3) The regional registrar shall, immediately after the time limited for filing appeals, forward a list thereof to the judge who shall then notify the regional registrar of the day he appoints for the hearing thereof and shall, if in his opinion the appeals or any of them appear to involve the calling or examination of witnesses, fix the place for holding such court within the municipality where the assessment roll is in question, or at the place nearest thereto where the sittings of the small claims court within his jurisdiction are held. Day and
place for
hearing

(4) The regional registrar shall thereupon give notice to all the appellants and all the persons appealed against in the same manner as is provided for giving notice on a complaint under section 39, but in the event of failure by the regional registrar to have the required service of the notices in any appeal made, or to have the service made in proper time, the judge may direct service to be made for some subsequent day upon which he may sit. Regional
registrar
to notify
parties

(5) The regional registrar shall cause a notice to be posted up in a conspicuous place in the office of the clerk of the municipality, or the place where the council of the municipality holds its sittings, containing the names of all the appellants and persons appealed against, with a brief statement of the ground or cause of appeal, together with the date at which the court will be held to hear appeals. R.S.O. 1970, c. 32, s. 55 (3-5). List of
appellants,
etc., to be
posted up by
regional
registrar

(6) The clerk of the Assessment Review Court is the clerk of the court, and he shall keep a record of the decision of the judge upon each appeal, which shall be certified by the judge and when so certified shall be forwarded to the regional registrar. R.S.O. 1970, c. 32, s. 55 (6); 1973, c. 26, s. 8. Clerk of
court

Hearing
of
appeals

(7) At the court so held, the judge shall hear the appeals and may adjourn the hearing from time to time and defer judgment thereon at his pleasure but so that all appeals are heard and disposed of as soon as practicable. 1974, c. 41, s. 18 (2), *part*.

Subpoena

(8) A subpoena to compel the attendance of any witness required before the county judge upon any appeal under this Act may be issued by the clerk of the county court of the county in which is situated the municipality whose assessment roll is in question, and the subpoena shall be tested as are other subpoenas issued out of the county court of the county in actions therein and may be entitled as is provided in section 45. R.S.O. 1970, c. 32, s. 55 (10).

Assessment
roll to be
produced to
the court

43. At the court to be held by the county judge to hear the appeals hereinbefore provided for, the person having charge of the assessment roll certified by the regional registrar shall appear and produce such roll and all papers and writings in his custody connected with the matter of the appeal. R.S.O. 1970, c. 32, s. 56.

Powers of
judge
sitting in
appeal from
Assessment
Review
Court

44.—(1) In all proceedings before the county judge under or for the purposes of this Act, the judge possesses all such powers for compelling the attendance of and for the examination on oath of all parties, whether claiming or objecting or objected to, and of all other persons, and for the production of books, papers, rolls and documents, and for the enforcement of his orders, decisions and judgments, as belong to or might be exercised by him in the county court.

Appeal to
county judge
where
question
of fact
involved

(2) The hearing of the appeal by the county judge shall, where questions of fact are involved, be in the nature of a new trial, and either party may adduce further evidence in addition to that heard before the Assessment Review Court, subject to any order as to costs or adjournment that the judge may consider just. R.S.O. 1970, c. 32, s. 57.

Style of
proceedings

45. All process or other proceedings by way of appeal may be entitled as follows:

In the Matter of Appeal from the Assessment Review Court in respect
of the.....of.....

....., Appellant,

and

....., Respondent,

and they need not be otherwise entitled. R.S.O. 1970, c. 32, s. 58.

46.—(1) The decision of the judge shall be forwarded by the regional registrar to the clerk of the municipality who shall forthwith alter the assessment roll in accordance with the decisions of the judge, and shall write his name or initials against every alteration.

Alteration
of roll by
clerk

(2) When the judge has heard and decided an appeal, the regional registrar shall, forthwith after receipt of the record of the decision from the clerk of the court, cause notice of the decision in such appeal to be given by registered mail to the persons to whom notice of the hearing was given and such notice shall state thereon that such decision may be appealed to the Ontario Municipal Board within twenty-one days of the mailing of such notice. R.S.O. 1970, c. 32, s. 62.

Notice of
decision

47.—(1) The municipal corporation, a school board, the assessment commissioner, any person assessed and any person who has filed a complaint under subsection 39 (2) may appeal from the decision of the county judge to the Ontario Municipal Board. R.S.O. 1970, c. 32, s. 63 (1).

Appeals to
O.M.B.

(2) An appeal also lies to the Ontario Municipal Board from a decision of the county judge under section 32 or 33. 1972, c. 125, s. 17; 1974, c. 41, s. 19 (1).

Appeal
under
ss. 32, 33

(3) Where an assessment is in an amount of \$50,000 or more or has been increased by the Assessment Review Court to an amount of \$50,000 or more and where no appeal is taken to the county judge, an appeal also lies to the Ontario Municipal Board from a decision of the Assessment Review Court in the same manner as an appeal under subsection (1) or (2). R.S.O. 1970, c. 32, s. 63 (3).

Appeals to
O.M.B.

(4) Except as provided in subsections (5) and (7), sections 42 to 45 and section 48 apply to appeals taken under subsection (1) or (2), and on such appeals the Ontario Municipal Board has the powers and duties of a county judge under such sections. R.S.O. 1970, c. 32, s. 63 (4); 1974, c. 41, s. 19 (2).

Provisions
applicable
to appeals,
powers of
O.M.B.

(5) A notice of appeal to the Ontario Municipal Board under subsection (1) or (2) shall, within twenty-one days after notice of the decision appealed from has been given under subsection 46 (2), be sent by the party appealing by registered mail to the secretary of the Board and to the persons to whom notice of the hearing before the judge was given.

Notice of
appeal

Notice of
appeal
under
subs. (3)

(6) A notice of appeal to the Ontario Municipal Board under subsection (3) shall, within twenty-one days after notice of the decision appealed from has been given under subsection 39 (13), be sent by the party appealing by registered mail to the secretary of the Board and to the persons to whom notice of the hearing before the Assessment Review Court was given.

Notice of
hearing

(7) Upon receipt of a notice of appeal under this section, the secretary of the Ontario Municipal Board shall arrange a time and place for hearing the appeal and shall send notice thereof by registered mail to all parties concerned in the appeal at least fourteen days before the hearing.

Appeal from
O.M.B. to
Divisional
Court in
certain
matters

(8) An appeal lies from the decision of the Ontario Municipal Board under this section to the Divisional Court upon all questions of law or the construction of a statute, a municipal by-law, any agreement in writing to which the municipality concerned is a party, or any order of the Board.

Procedure
on appeals

(9) The practice and procedure on the appeal to the Divisional Court shall be the same with necessary modifications, subject to any rule of the court or regulation of the Ontario Municipal Board, as upon an appeal from a county court to the Court of Appeal.

Alteration
in roll as
result of
appeal from
O.M.B.

(10) If, by the decision of the Ontario Municipal Board or by the judgment of the Divisional Court, it appears that any alteration should be made in the assessment roll respecting the assessment in question, the clerk of the municipality concerned shall alter the assessment roll to give effect to the decision or judgment and shall write his name or initials against every alteration. R.S.O. 1970, c. 32, s. 63 (5-10).

Assessment
may be
open upon
appeal

48.—(1) Upon an appeal on any ground against an assessment, the Assessment Review Court, county judge or Ontario Municipal Board hearing an appeal under section 43, or the Divisional Court, as the case may be, may reopen the whole question of the assessment so that omissions from, or errors in the assessment roll may be corrected, and the amount for which the assessment should be made, and the person or persons who should be assessed therefor may be placed upon the roll, and if necessary the roll of the municipality, even if returned as finally revised, may be opened so as to make it correct in accordance with the findings made on appeal. R.S.O. 1970, c. 32, s. 64 (1).

(2) In determining the value at which any land shall be assessed, reference may be had to the value at which similar lands in the vicinity are assessed. R.S.O. 1970, c. 32, s. 64 (2); 1974, c. 41, s. 20.

Reference
to similar
lands in
vicinity

49.—(1) Upon a complaint or appeal with respect to an assessment, the Assessment Review Court, county judge or Ontario Municipal Board may review the assessment and, for the purpose of such review, has all the powers and functions of the assessor in making an assessment, determination or decision under this Act, and any such assessment, determination or decision made on review by the Assessment Review Court, county judge or Ontario Municipal Board shall, except as provided in subsection (2), be deemed to be an assessment, determination or decision of the assessor and has the same force and effect.

Powers and
functions of
Assessment
Review
Court,
county
judge,
O.M.B.

(2) A decision of the Assessment Review Court, county judge or Ontario Municipal Board with regard to persons alleged to be wrongfully placed upon or omitted from the assessment roll or assessed at too high or too low a sum is final and binding unless appealed in accordance with the provisions of this Act.

Decision
re quantum,
etc., final

(3) For greater certainty, it is hereby declared that the provisions of sections 39, 42 and 47 respecting appeals are intended to establish machinery for the review of an assessment for the purpose of ensuring the administrative integrity of the assessment roll, and, except as provided in subsection (2), such provisions shall not be deemed to affect the right of any person to apply to a superior, county or district court for a judicial determination of any question relating to an assessment. R.S.O. 1970, c. 32, s. 65.

Purpose of
provisions
re appeals

50.—(1) The municipal corporation, assessment commissioner or any person assessed may apply by originating notice to the Supreme Court or to the county court of the county in which the assessment is made for the determination of any question relating to the assessment, except a question as to persons alleged to be wrongfully placed upon or omitted from the assessment roll or assessed at too high or too low a sum.

Application
to court by
originating
notice

(2) The persons to be served with notice under this section shall be the persons assessed in respect of the property relating to the assessment, the assessment commissioner and the clerk of the municipality affected by the assessment.

Service of
notice

Time for
notice

(3) No originating notice shall be commenced except within the times for commencing an action or other proceeding set forth in section 51.

Appeal to
Divisional
Court

(4) An appeal lies to the Divisional Court from the judgment of the Supreme Court or from the judgment of the county court.

Final
revision of
roll not to
be delayed,
alteration
of roll on
Divisional
Court
judgment

(5) The appeal from any judgment made by the Supreme Court or by a county court on an originating notice given under this section or the hearing or argument or other proceedings thereon shall not delay the final revision of the assessment roll, but, if by the judgment of the Divisional Court it appears that any alteration should be made in the assessment roll respecting the assessment in question, the clerk of the municipality shall cause the proper entries to be made in the assessment roll to give effect to the judgment on the originating notice or on appeal therefrom.

Judgment
of court
binding on
Assessment
Review
Court, etc.

(6) Notwithstanding that a question of the assessment of any person is pending before the Assessment Review Court, a judge of the county court or the Ontario Municipal Board, the judgment of the Supreme Court, the county court or the Divisional Court shall be given effect to and is binding upon the Assessment Review Court, the judge of the county court and the Ontario Municipal Board. R.S.O. 1970, c. 32, s. 66.

Limitation
of actions
in court

51. No action or other proceeding, except an action or other proceeding brought by or on behalf of a municipality for the collection of arrears of taxes, shall be brought in court with respect to an assessment or taxes based thereon,

- (a) except within sixty days after the day upon which the assessment roll is required by law to be returned, or within sixty days after the return of the roll, in case the roll is not returned within the time fixed for that purpose;
- (b) where a complaint with respect to the assessment is made to the Assessment Review Court, except within the time limited for appealing from the decision of the Assessment Review Court to the county court judge;
- (c) where an appeal is made from the decision of the Assessment Review Court to the county court judge, except within the time limited for appealing from

the decision of the county court judge to the Ontario Municipal Board; and

- (d) where an appeal is made from the decision of the county court judge to the Ontario Municipal Board, except within fifteen days after the date of the decision of the Ontario Municipal Board,

provided, where an appeal is made to the Divisional Court, no action or other proceeding shall be brought in any other court with respect to the assessment. R.S.O. 1970, c. 32, s. 67.

52. Where any part of an assessment is declared invalid or in error by the Supreme Court or a county court, the whole assessment is not thereby invalidated and the court may direct that the assessment roll be altered in accordance with its judgment and the clerk of the municipality concerned shall so alter the roll and shall write his name or initials against every alteration. R.S.O. 1970, c. 32, s. 68.

Alteration
of roll as
result of
judgment

53. No matter that could have been raised by way of complaint to the Assessment Review Court or in an action or other proceeding with respect to an assessment in a court within the times limited for bringing such complaint, action or other proceeding under this Act shall be raised by way of defence in any action or other proceeding brought by or on behalf of a municipality. R.S.O. 1970, c. 32, s. 69.

Defence
limited in
actions to
collect
taxes, etc.

54. Where the assessment of any real property is altered on an appeal or in an action, any business assessment based on the assessed value of such real property shall be altered in the assessment roll by the clerk of the municipality to conform with the altered real property assessment. R.S.O. 1970, c. 32, s. 70; 1974, c. 41, s. 21.

Revision of
assessment
roll on
alteration
of real
property
assessment

55.—(1) The Ministry shall examine the amounts of the assessments of rateable property in each municipality and locality on the last returned assessment roll of each municipality and locality and determine as nearly as may be what the total of the amounts of the assessment of such rateable property should be so that costs may be apportioned and grants provided on a basis which is just and equitable as between municipalities and localities. R.S.O. 1970, c. 32, s. 71 (1); 1972, c. 1, s. 1; 1980, c. 69, s. 3.

Equalized
assessment
determi-
nation

(2) The amount so determined under subsection (1) is the equalized assessment of each municipality and locality and the equalization factor of a municipality or locality is the percentage that the total of the amounts of the assessments of rateable property of a municipality or locality is of the equalized assessment of the municipality or

Equalized
assessment
and
equalization
factor

locality, but neither the equalized assessment nor equalization factor of a municipality or locality shall be taken into account in the assessment of any land except as provided in this or any other Act.

Publication

(3) The equalized assessment and equalization factor of each municipality and locality shall be published in *The Ontario Gazette* in each year not later than the 15th day of July. R.S.O. 1970, c. 32, s. 71 (2, 3).

Review

(4) On or before the 1st day of November in the year of publication under subsection (3), a municipality or locality may apply to the Ontario Municipal Board for a review of its equalized assessment and equalization factor and the Ministry may apply for a review of the equalized assessment and equalization factor of any municipality or locality and the applicant shall give notice in writing by registered mail to the secretary of the Board. R.S.O. 1970, c. 32, s. 71 (4); 1972, c. 1, s. 1.

Hearing

(5) Upon receipt of a notice of application for review under this section, the secretary of the Ontario Municipal Board shall arrange a time and place for hearing the application and shall send notice thereof by registered mail to the Ministry and to the clerk of the municipality or the secretary of each school board in the locality concerned at least fourteen days before the hearing. R.S.O. 1970, c. 32, s. 71 (5); 1972, c. 1, s. 1.

Powers of
O.M.B.

(6) If the equalized assessment and equalization factor under review are not just and equitable, the Ontario Municipal Board, upon the hearing of the application, shall determine a just and equitable equalized assessment and equalization factor.

Appeal

(7) Subsections 47 (8) and (9) apply with necessary modifications to an application under this section.

Effect of
appeal

(8) The decision of the Ontario Municipal Board or the judgment of the Divisional Court on an application under this section does not affect the equalized assessment and equalization factor of a municipality or locality, as determined under subsection (1) or (2), for the purposes of any provision of any Act where equalized assessments or equalization factors are used in any determination and an appeal therefrom or a review thereof is provided. R.S.O. 1970, c. 32, s. 71 (6-8).

56. Where at any time the boundaries of a municipality or locality are altered or a new municipality is erected, the Ontario Municipal Board shall adjust the equalized assessment determined under section 55 of the municipalities affected. R.S.O. 1970, c. 32, s. 74. Adjustment
of equalized
assessment

57.—(1) Every assessment commissioner or assessor or any person in the employ of a municipality who in the course of his duties acquires or has access to information furnished by any person under section 9 or 10 that relates in any way to the determination of the value of any real property or the amount of assessment thereof or to the determination of the amount of any business assessment, and who wilfully discloses or permits to be disclosed any such information not required to be entered on the assessment roll to any other person not likewise entitled in the course of his duties to acquire or have access to the information, is guilty of an offence and on conviction is liable to a fine of not more than \$200, or to imprisonment for a term of not more than six months, or to both. Disclosure of
information

(2) This section does not prevent disclosure of such information by any person when being examined as a witness in an assessment appeal or in an action or other proceeding in a court or in an arbitration. R.S.O. 1970, c. 32, s. 78. Exception

58. In addition to the penalties and punishments provided for by this Act for a contravention of the provisions thereof, the person guilty of such contravention is liable to every person who is thereby injured for the damages sustained by such person by reason of such contravention. R.S.O. 1970, c. 32, s. 79. Right of
action for
damages
against
officer

59. This Act does not affect the terms of any agreement made with a municipal corporation, or any by-law heretofore or hereafter passed by a municipal council under any other Act for fixing the assessment of any property, or for commutating or otherwise relating to municipal taxation, but whenever in any Act of the Legislature or by any proclamation of the Lieutenant Governor in Council or by any valid by-law of a municipality heretofore passed or by any valid agreement heretofore entered into the assessment of the real and personal property of any person in a municipality is fixed at a certain amount for a period of years, unexpired at the time of the coming into force of this Act, or the taxes payable annually by any person in respect of the real and personal property are fixed at a stated amount during any such period, or the real and personal property of any person or any part thereof is exempt from municipal taxation in whole or in part for any such period, such fixed By-laws and
agreements
fixing
assessment
or granting
exemption
from
taxation not
affected

assessment or commutation of taxes or exemption shall be deemed to include any business assessment or other assessment and any taxes thereon in respect of the property or business mentioned in such Act, proclamation, by-law or agreement to which such person or the property of such person would otherwise be liable under this Act. R.S.O. 1970, c. 32, s. 80.

Computation
of time for
proceedings
where time
limited
expires on
Saturday

60. Where the municipal offices in a municipality are closed on Saturday and the time limited for any proceeding or for the doing of any things in such municipal offices under this Act expires or falls upon a Saturday, the time so limited shall extend to and the thing may be done on the day next following that is not a holiday. R.S.O. 1970, c. 32, s. 81.

References
to court of
revision in
other Acts
R.S.O. 1980,
cc. 250, 126

61.—(1) Where in any general or special Act, except the *Local Improvement Act* and the *Drainage Act*, reference is made to a court of revision, such reference shall be deemed to be a reference to the Assessment Review Court established under this Act.

Provisions
authorizing
courts of
revision in
other Acts
repealed

(2) Notwithstanding any general or special Act, any provision in any Act, except the *Local Improvement Act* and the *Drainage Act*, as to the constitution of a court of revision is repealed. R.S.O. 1970, c. 32, s. 83.

Assessment
roll for
years
1970-74

62. Subject to the alterations, amendments and corrections authorized by this Act, for the purposes of any general or special Act, the assessment roll of every municipality prepared for the year 1970 for taxation in 1971 shall be the assessment roll of the municipality for taxation in the years 1971 to and including 1974 and the assessments of all real property as set forth on the 1970 assessment roll shall be the assessments of the real property and the assessment commissioner of a municipality shall not cause to be prepared a new assessment roll for the municipality until the year 1974 for taxation in 1975. 1971, c. 79, s. 13, *part*; 1974, c. 41, s. 24.

Roll to be
returned
in 1974 and
following
years

63.—(1) Subject to the other provisions of this Act and to the alterations, corrections, additions and amendments authorized by this Act, and for the purpose of any special or general Act,

- (a) the assessment roll of a municipality to be returned in the year 1974 shall be the assessment of all real property as set forth in the assessment roll returned for the year 1970 for taxation in the year 1971 as

- amended, added to or otherwise altered up to the third Tuesday following the 1st day of December, 1974;
- (b) the assessment roll of a municipality to be returned in the year 1975 shall be the assessment of all real property as set forth in the assessment roll returned for the year 1974 for taxation in the year 1975 as amended, added to or otherwise altered up to the third Tuesday following the 1st day of December, 1975;
 - (c) the assessment roll of a municipality to be returned in the year 1976 shall be the assessment of all real property as set forth in the assessment roll returned for the year 1975 for taxation in the year 1976 as amended, added to or otherwise altered up to the third Tuesday following the 1st day of December, 1976;
 - (d) subject to subsection (2), the assessment roll of a municipality to be returned in the year 1977 shall be the assessment of all real property as set forth in the assessment roll returned for the year 1976 for taxation in the year 1977 as amended, added to or otherwise altered up to the third Tuesday following the 1st day of December, 1977;
 - (e) subject to subsection (2), the assessment roll of a municipality to be returned in the year 1978 shall be the assessment of all real property as set forth in the assessment roll returned for the year 1977 for taxation in the year 1978 as amended, added to or otherwise altered up to the third Tuesday following the 1st day of December, 1978;
 - (f) subject to subsection (2), the assessment roll of a municipality to be returned in the year 1979 shall be the assessment of all real property as set forth in the assessment roll returned for the year 1978 for taxation in the year 1979 as amended, added to or otherwise altered up to the date when the assessment roll for taxation in the year 1980 is returned; and
 - (g) subject to subsection (2), the assessment roll of a municipality to be returned in the year 1980 shall be the assessment of all real property as set forth in the assessment roll returned for the year 1979 for taxation in the year 1980 as amended, added to or otherwise altered up to the date when the assessment roll for taxation in the year 1981 is returned,

provided that, where the assessor is of the opinion that an assessment to be shown on the assessment roll to be returned for the years 1974 to and including 1980 is inequitable with respect to the assessment of similar real property in the vicinity, the assessor may alter the value of the assessment to the extent necessary to make the assessment equitable with the assessment of such similar real property. 1976, c. 65, s. 1; 1977, c. 56, s. 1 (*a*, *b*); 1978, c. 73, s. 1; 1979, c. 88, s. 2 (1); 1980, c. 69, s. 4.

Increases in
value to be
added to
assessment
roll

(2) Where the erection, alteration, enlargement or improvement of any building, structure, machinery, equipment or fixture or any portion thereof increases the value of any real property in a municipality or locality by at least \$2,500, and where such increase in value has not been, or is not liable to be, assessed pursuant to section 33, such increase in value shall be assessed and included in the assessment roll to be returned in the municipality or locality next after such increase comes to the attention of, and the amount thereof has been determined by, the Assessment Commissioner. 1977, c. 56, s. 1 (*d*).

Equalization of
assessment
within a
municipality

(3) Where the Minister considers that, within any class or classes of real property in a municipality, any parcel or parcels of real property are assessed inequitably with respect to the assessment of any other parcel or parcels of real property of that class, he may, if so requested by a resolution of the council of such municipality, direct that such changes be made in the assessment to be contained in the assessment roll next to be returned in that municipality as will, in his opinion, eliminate or reduce inequalities in the assessment of any class or classes of real property, and the Minister may, for that purpose, make regulations,

- (a) prescribing standards and procedures to be used for the purpose of equalizing and making equitable the assessments of all real property belonging to the same class in the municipality;
- (b) prescribing the classes of real property into which the real property in the municipality shall be divided for the purpose of this subsection;
- (c) providing that any equalization of assessment pursuant to clause (*a*) shall not alter, as between classes of real property in the municipality, the relative level of assessment at market value previously existing between or among such classes, or providing that the equalization shall alter such levels of assessment at market value no more than is reasonably necessary to provide equity of assessment within each class; or

- (d) providing that an equalization pursuant to clause (a) shall not, except so far as is necessary to give effect to section 33, section 64 or subsection (2) of this section, alter the proportion that the municipal tax attributable to a class of real property for the year in which the equalization is directed to be made is of the total municipal tax for that year. 1979, c. 88, s. 2 (2).

64. No amendment shall be made to the assessment or collector's roll pursuant to clause 33 (a) until the cumulative value of the increase since the 23rd day of July, 1971, is at least in the sum of \$2,500 at market value or, if the assessment in the vicinity is at less than market value, at an equivalent rate. 1974, c. 41, s. 26.

No amendment
to roll until
increase at
least \$2,500

65.—(1) The Assessment Review Court, county judge, Ontario Municipal Board or any court, in determining the value at which any real property shall be assessed in any complaint, appeal, proceeding or action, shall have reference to the value at which similar real property in the vicinity is assessed, and the amount of any assessment of real property shall not be altered unless the Assessment Review Court, judge, Board or court is satisfied that the assessment is inequitable with respect to the assessment of similar real property in the vicinity, and in that event the assessment of the real property shall not be altered to any greater extent than is necessary to make the assessment equitable with the assessment of such similar real property. 1971, c. 79, s. 13, *part*.

Powers
on appeal

(2) For the purposes of subsection (1) and of section 63, where a residential assessment is made with respect to a unit, as defined in the *Condominium Act*, a proposed unit, as defined in that Act, or a unit or suite in the building of a co-operative housing corporation, the value at which such unit, proposed unit or suite shall be assessed shall be based on the same proportion of the market value thereof as that at which owner-occupied single-family residences in the vicinity are assessed. 1975 (2nd Sess.), c. 2, s. 2.

Con-
dominium
and co-
operative
housing
R.S.O. 1980,
c. 84

66. Notwithstanding section 51, a proceeding or action may be brought in a court pursuant to section 50 or 51 at any time but the court may only alter an assessment to affect taxes fixed, levied and payable with respect to such assessment in the year in which the action or proceeding is commenced and any subsequent year. 1971, c. 79, s. 13, *part*.

Time for
action or
proceeding

67. No assessment taken in any municipality under subsection 35 (1) or (2) in the year 1971 shall be used for purposes of taxation and no appeal, complaint, action or proceeding shall lie, be brought, maintained or continued with respect to any such assessment. 1971, c. 79, s. 13, *part*.

Assessments
generally
made in 1971
inoperative

Application

68. Section 65 ceases to be in force on the 22nd day of December, 1981, but shall continue in force for the purpose of any pending complaint, appeal, proceeding or action that will affect taxes for the years 1971 to and including 1981. 1980, c. 69, s. 5.

Application

69. Subject to section 70, subsection 24 (6) is not in force and remains inoperative until the 1st day of January, 1981. 1980, c. 69, s. 6.

Proclaiming
suspension
of ss. 62-67

70.—(1) Notwithstanding any other provision of this Act, the Lieutenant Governor by proclamation may provide that, on a day named in the proclamation, the whole or any part of the provisions of sections 62 to 67 shall cease to be in force in any municipality or territory without municipal organization comprised in a locality named or described in the proclamation, and upon the making of such a proclamation the provisions of this Act specified in the proclamation cease to be in force in the municipality or territory without municipal organization comprised in a locality named or described as of the date named in the proclamation, but such a proclamation shall not extend the application of any provision therein mentioned beyond the time that the provision would otherwise cease to be in force as set out in section 68. 1972, c. 161, s. 2, *part*; 1977, c. 56, s. 4 (1).

Proclaiming
certain
provisions
in force

(2) The Lieutenant Governor by proclamation may name a day upon which the provisions of this Act referred to in section 69 shall cease to be inoperative and shall come into force in any municipality or territory without municipal organization comprised in a locality named or described in the proclamation, and upon the making of the proclamation such provisions shall cease to be inoperative and shall come into force in the named or described municipality or territory without municipal organization comprised in a locality upon the day named in the proclamation. 1972, c. 161, s. 2, *part*; 1975 (2nd Sess.), c. 2, s. 3 (1); 1979, c. 88, s. 5; 1980, c. 69, s. 7.

Assessment
roll to be
returned

(3) In any proclamation made under this section, the Lieutenant Governor may also name a day, not less than one month after the date in the proclamation specified as the date when it takes effect in any municipality or territory without municipal organization comprised in a locality, upon which the assessment commissioner for the assessment region within which any municipality or territory without municipal organization comprised in a locality named or described in the proclamation is situated shall return a new assessment roll for the assessment at market value of real property in any municipality or territory without municipal organization comprised in a locality named or described in

the proclamation, and the assessment commissioner shall return a new assessment roll for such municipality or territory without municipal organization comprised in a locality in accordance with the provisions of this Act that will be in force in that municipality or territory without municipal organization comprised in a locality on the day that the new assessment roll is returned. 1972, c. 161, s. 2, *part*.

(4) Notwithstanding any special or general Act to the contrary, where a proclamation is made under this section in which a day is named for the return of a new assessment roll in a municipality described in the proclamation, any municipal or school tax to be levied and raised in the year in which such named day occurs by the council of such municipality under the authority of the *Municipal Act*, and any taxes and rates that, by any other enactment, the council of such municipality may be required to levy and collect in the year in which such named day occurs, and any mill rate to be determined in such municipality for the year in which such named day occurs for the purpose of taxation in that year shall be based on the value of property contained in the new assessment roll returned in such municipality in accordance with subsection (3). 1972, c. 161, s. 2, *part*; 1973, c. 148, s. 5 (1).

Tax to be
on basis
of new
assessment
roll

R.S.O. 1980,
c. 302

(5) Notwithstanding section 365 of the *Municipal Act*, where a proclamation is made under this section in which a day is named for the return of a new assessment roll in a township, town or village described in the proclamation, the council of the county in which such township, town or village is situated may by by-law passed before the 1st day of December in the year in which such named day occurs determine to apportion the county rate for such year by taking into consideration and making adjustment for any change in assessment that has resulted from the return of a new assessment roll in accordance with subsection (3) in any township, town or village situated in the county, and except in so far as they are inconsistent with this section, the provisions of section 365 of the *Municipal Act* apply to the apportionment of the county rate for such year, and within ten days of the passing of a by-law under this subsection, the county clerk shall send a copy of such by-law by registered mail to the clerk of each municipality situated within the boundaries of the county. 1972, c. 161, s. 2, *part*; 1973, c. 148, s. 5 (2); 1977, c. 56, s. 4 (3).

Apportion-
ment of
county rate

(6) Notwithstanding any special or general Act to the contrary, where a proclamation is made under this section in which a day is named for the return of a new assessment roll in a territory without municipal organization comprised

Tax to be
on basis
of new
assessment
roll

in a locality described in the proclamation, any taxes for school purposes that a public school board, divisional board of education or separate school board levies in the year in which such named day occurs in the territory without municipal organization comprised in a locality, and any mill rate to be determined in such territory without municipal organization comprised in a locality for taxation for school purposes in that year, shall be based on the value of property contained in the new assessment roll returned in such territory without municipal organization comprised in a locality in accordance with subsection (3). 1972, c. 161, s. 2, *part*; 1973, c. 148, s. 5 (3).

Return
of second
roll not
prevented

(7) For the purposes of providing, in any municipality or territory without municipal organization comprised in a locality, an assessment roll for taxation in the year following that in which a new assessment roll is returned in such municipality or territory without municipal organization comprised in a locality on a day named in a proclamation made under this section, nothing contained in this section shall be construed to prevent the return, in the year in which such new assessment roll has been returned, in such municipality or territory without municipal organization comprised in a locality of a second assessment roll in accordance with the provisions of this Act that will be in force in such municipality or territory without municipal organization comprised in a locality after the proclamation comes into force. 1975 (2nd Sess.), c. 2, s. 3 (2).

Proclamation
may be for
part of a
municipality
or
unorganized
territory

(8) A proclamation under this section may be made for part only of a municipality or of territory without municipal organization comprised in a locality, and where a day is named in such proclamation for the return of a new assessment roll in accordance with subsection (3), the new assessment roll shall be returned for only the real property situated in that part of the municipality or territory without municipal organization comprised in a locality that is described in the proclamation. 1972, c. 161, s. 2, *part*.

FORM 1

(Section 38)

AFFIDAVIT OR AFFIRMATION OF ASSESSMENT COMMISSIONER

IN VERIFICATION OF ASSESSMENT ROLL

I,.....of the.....
....., make oath and say (*or* solemnly declare and affirm) as follows:

1. I have, according to the best of my information and belief, set down or caused to be set down in the assessment roll attached hereto all the real property liable to taxation situate in.....; and I have justly and truly assessed or caused to be assessed in accordance with the *Assessment Act*, each of the parcels of real property so set down and, according to the best of my information and belief, I have entered or caused to be entered the names of all owners or tenants assessable in respect of each such parcel.

2. I have estimated and set down or caused to be estimated and set down in the assessment roll, according to the best of my information and belief, the amounts assessable against every person named in the roll for business or otherwise under such Act.

3. According to the best of my knowledge and belief, I have entered or caused to be entered therein the name of every person entitled to be so entered under the *Assessment Act*, or any other Act; and I have not intentionally omitted or caused to be omitted from the roll the name of any person whom I knew or had good reason to believe to be entitled to be entered therein under any of such Acts.

4. I have entered or caused to be entered on the roll the date of delivery or transmission of the notice required by section 30 of the *Assessment Act*, and every such date is truly and correctly stated in the roll.

or

A certificate has been made and attached to the assessment roll certifying the date upon which the notices of Assessment were delivered as required by section 30 of the *Assessment Act*.

(*Strike out that which does not apply*)

5. I have, according to the best of my information and belief, complied with or caused to be complied with all the provisions of the *Assessment Act*, or of any regulation, with regard to the preparation of the assessment roll.

Sworn (*or* solemnly declared and affirmed)
before me.....
at the.....
in the.....
of.....
this.....
day of.....
19....

CHAPTER 32

Assessment Review Court Act

1. In this Act,

Interpre-
tation

(a) “Court” means the Assessment Review Court ;

(b) “municipality” means a city, town, village or township. 1972, c. 111, s. 1.
2. The Assessment Review Court is hereby continued.

Assessment
Review Court
continued

1972, c. 111, s. 2.
3. The Court shall be composed of a chairman and such

Composition

number of vice-chairmen and other members as the Lieutenant Governor in Council considers advisable, all of whom shall be appointed by the Lieutenant Governor in Council. 1972, c. 111, s. 3.
- 4.—(1) The *Public Service Act*, except sections 4 and 6,

Application
of
R.S.O. 1980,
c. 418

applies to the members of the Court who are employed on a full-time basis.
- (2) The *Public Service Superannuation Act* applies to the

Application
of
R.S.O. 1980,
c. 419

members of the Court who are employed on a full-time basis. 1972, c. 111, s. 4.
5. One member of the Court constitutes a quorum and is

Quorum

sufficient for the exercise of all of the jurisdiction and powers of the Court. 1972, c. 111, s. 5.
6. The chairman or a vice-chairman shall from time to

Assignment
of members
and staff
for sittings

time assign the members of the Court to its various sittings and may change any such assignments at any time and the chairman or a vice-chairman may from time to time direct any officer or other member of the staff of the Court to attend any of the sittings of the Court and may prescribe his duties. 1972, c. 111, s. 6.
7. Every member of the Court before entering upon his

Oath of
members
of Court

duties shall take and subscribe the following oath (or affirmation in cases where, by law, affirmation is allowed):

"I.....do solemnly swear (or affirm) that I will, to the best of my judgment and ability, and without fear, favour or partiality, honestly decide the appeals to the Assessment Review Court that may be brought before me for trial as a member of the Court."

1972, c. 111, s. 7.

Rules

8. Subject to the approval of the Lieutenant Governor in Council, the Court shall make rules governing its practice and procedure and the exercise of its powers. 1972, c. 111, s. 9.

Sittings
of Court

9. The Court shall hold sittings at such place or places within a county or district or a metropolitan or regional or district municipality as the chairman from time to time may designate for the purpose of hearing and deciding all complaints relating to assessments in municipalities within the county or district or the metropolitan or regional or district municipality in respect of which a person may appeal to the Court under the *Assessment Act* or any other Act. 1973, c. 107, s. 2.

R.S.O. 1980,
c. 31

Registrar,
regional
registrars
R.S.O. 1980,
c. 418

10.—(1) A Registrar of the Court and such regional registrars and other officers and employees as are considered necessary shall be appointed under the *Public Service Act*.

Acting
regional
registrars

(2) In the absence for any reason of any regional registrar, the Attorney General may appoint an acting regional registrar who, while so acting, has all the powers and duties of a regional registrar. 1972, c. 111, s. 11.

Clerk of
Court and
record

11. There shall be a clerk of the Court for each hearing of the Court and the clerk shall keep a record of the proceedings and decisions of the Court, which shall be certified by a member of the Court who heard the appeal and when so certified shall be forwarded forthwith to the regional registrar. 1973, c. 107, s. 3.

Accommoda-
tion for Court

12. Where sittings of the Court are to be held in a municipality, the municipality shall provide a suitable room and other necessary accommodation for holding the Court. 1972, c. 111, s. 13.

CHAPTER 33

Assignments and Preferences Act

1. In this Act, "judge" means a judge of the county or district court of the county or district in which the assignment is required to be registered. R.S.O. 1970, c. 34, s. 1.

Interpre-
tation

2. Where a judge is disqualified to act in a matter arising under this Act, a judge of the county or district court of an adjoining county or district has jurisdiction to act in his place. R.S.O. 1970, c. 34, s. 2.

Where judge
disqualified

3. Every confession of judgment, *cognovit actionem* or warrant of attorney to confess judgment given by a person, being at the time in insolvent circumstances or unable to pay his debts in full or knowing himself to be on the eve of insolvency, voluntarily or by collusion with a creditor with intent thereby to defeat, hinder, delay or prejudice his creditors wholly or in part, or to give one or more of his creditors a preference over his other creditors or over any one or more of them, is void as against the creditors of the person giving the same and is ineffectual to support any judgment or execution. R.S.O. 1970, c. 34, s. 3.

Nullity of
certain con-
fessions of
judgment,
etc.

4.—(1) Subject to section 5, every gift, conveyance, assignment or transfer, delivery over or payment of goods, chattels or effects, or of bills, bonds, notes or securities, or of shares, dividends, premiums or bonus in any bank, company or corporation, or of any other property, real or personal, made by a person at a time when he is in insolvent circumstances or is unable to pay his debts in full, or knows that he is on the eve of insolvency, with intent to defeat, hinder, delay or prejudice his creditors, or any one or more of them, is void as against the creditor or creditors injured, delayed or prejudiced.

Nullity of
gifts, trans-
fers, etc.,
made with
intent to
defeat or
prejudice
creditors

(2) Subject to section 5, every such gift, conveyance, assignment or transfer, delivery over or payment made by a person being at the time in insolvent circumstances, or unable to pay his debts in full, or knowing himself to be on the eve of insolvency, to or for a creditor with the intent to give such creditor an unjust preference over his other creditors or over any one or more of them is void as against the creditor or creditors injured, delayed, prejudiced or postponed.

Unjust
preferences

When there is presumption of intention if transaction has effect of unjust preference

(3) Subject to section 5, if such a transaction with or for a creditor has the effect of giving that creditor a preference over the other creditors of the debtor or over any one or more of them, it shall, in and with respect to any action or proceeding that, within sixty days thereafter, is brought, had or taken to impeach or set aside such transaction, be presumed *prima facie* to have been made with the intent mentioned in subsection (2), and to be an unjust preference within the meaning of this Act whether it be made voluntarily or under pressure.

Idem

(4) Subject to section 5, if such a transaction with or for a creditor has the effect of giving that creditor a preference over the other creditors of the debtor or over any one or more of them, it shall, if the debtor within sixty days after the transaction makes an assignment for the benefit of his creditors, be presumed *prima facie* to have been made with the intent mentioned in subsection (2), and to be an unjust preference within the meaning of this Act whether it be made voluntarily or under pressure.

"Creditor" for certain purposes to include surety and endorser

(5) The word "creditor" in the fifth line of subsection (2), in the second line of subsection (3), and in the second line of subsection (4), includes any surety and the endorser of any promissory note or bill of exchange who would upon payment by him of the debt, promissory note or bill of exchange, in respect of which such suretyship was entered into or such endorsement was given, become a creditor of the person giving the preference within the meaning of those subsections. R.S.O. 1970, c. 34, s. 4.

Assignments for benefit of creditors and *bona fide* sales, etc., protected

5.—(1) Nothing in section 4 applies to an assignment made to the sheriff of the county or district in which the debtor resides or carries on business or, with the consent of a majority of his creditors having claims of \$100 and upwards computed according to section 24, to another assignee resident in Ontario, for the purpose of paying rateably and proportionately and without preference or priority all the creditors of the debtor their just debts, nor to any *bona fide* sale or payment made in the ordinary course of trade or calling to an innocent purchaser or person, nor to any payment of money to a creditor, nor to any *bona fide* conveyance, assignment, transfer or delivery over of any goods or property of any kind, that is made in consideration of a present actual *bona fide* payment in money, or by way of security for a present actual *bona fide* advance of money, or that is made in consideration of a present actual *bona fide* sale or delivery of goods or other property where the money paid or the goods or other property sold or delivered bear a fair and reasonable relative value to the consideration therefor.

(2) In case of a valid sale of goods or other property and payment or transfer of the consideration or part thereof by the purchaser to a creditor of the vendor under circumstances that would render void such a payment or transfer by the debtor personally and directly, the payment or transfer, even though valid as respects the purchaser, is void as respects the creditor to whom it is made.

Transfer to
creditor of
considera-
tion for
sale invalid

(3) Every assignment for the general benefit of creditors that is not void under section 4, but is not made to the sheriff nor to any other person with the prescribed consent of creditors, is void as against a subsequent assignment that is in conformity with this Act, and is subject in other respects to the provisions thereof until and unless a subsequent assignment is executed in accordance therewith.

Effect of
assignment
not in
accordance
with Act

(4) Where a payment has been made that is void under this Act and any valuable security was given up in consideration of the payment, the creditor is entitled to have the security restored or its value made good to him before, or as a condition of, the return of the payment.

Security
given up
upon void
payment to
be returned

(5) Nothing in this Act,

Exceptions:

(a) affects the *Wages Act* or prevents a debtor providing for payment of wages due by him in accordance with that Act;

wages
R.S.O. 1980,
c. 526

(b) affects any payment of money to a creditor where the creditor, by reason or on account of the payment, has lost or been deprived of, or has in good faith given up, any valid security that he held for the payment of the debt so paid unless the security is restored or its value made good to the creditor;

surrender of
securities

(c) applies to the substitution in good faith of one security for another security for the same debt so far as the debtor's estate is not thereby lessened in value to the other creditors; or

exchange of
securities

(d) invalidates a security given to a creditor for a pre-existing debt where, by reason or on account of the giving of the security, an advance in money is made to the debtor by the creditor in the *bona fide* belief that the advance will enable the debtor to continue his trade or business and to pay his debts in full. R.S.O. 1970, c. 34, s. 5.

certain
securities
to be valid

6. No person, other than a permanent and *bona fide* resident of Ontario, shall be assignee under an assignment within

Residence
of assignee

this Act, nor shall any assignee delegate his duties as assignee to or appoint as deputy any person who is not a permanent and *bona fide* resident of Ontario, and no charge shall be made or recoverable against the assignor or his estate for any services or other expenses of any such assignee, deputy or delegate of any assignee who is not a permanent and *bona fide* resident of Ontario. R.S.O. 1970, c. 34, s. 6.

Form of
assignment
for general
benefit of
creditors

7. Every assignment made under this Act for the general benefit of creditors, if the property is described in the words "all my personal property that may be seized and sold under execution and all my real estate, credits and effects", or in words to the like effect, vests in the assignee all the real and personal estate, rights, property, credits and effects, whether vested or contingent, belonging to the assignor at the time of the assignment, except such as are by law exempt from seizure or sale under execution, subject, however, as regards land, to the *Registry Act* and the *Land Titles Act*. R.S.O. 1970, c. 34, s. 7.

R.S.O. 1980,
cc. 445, 230

All assign-
ments for
general
benefit of
creditors to
be subject
to this Act

8. Every assignment for the general benefit of creditors, whether it is or is not expressed to be made under or in pursuance of this Act and whether the assignment does or does not include all the real and personal estate of the assignor, vests the estate, whether real or personal or partly real and partly personal, thereby assigned in the assignee therein named for the general benefit of creditors, and the assignment and the property thereby assigned is subject to all the provisions of this Act, and the same applies to the assignee named in such assignment. R.S.O. 1970, c. 34, s. 8.

How claims
are to rank
where
different
estates

9. If an assignor executing an assignment under this Act for the general benefit of his creditors owes debts both individually and as a member of a partnership or as a member of different partnerships, the claims rank first upon the estate by which the debts they represent were contracted and only rank upon the other or others after all the creditors of such other estate or estates have been paid in full. R.S.O. 1970, c. 34, s. 9.

Appoint-
ment of
substituted
assignee

10.—(1) A majority in number and value of the creditors who have proved claims to the amount of \$100 or upwards may substitute for the sheriff, or for an assignee under an assignment to which subsection 5 (3) applies, a person residing in the county or district in which the assignor resided or carried on business at the time of the assignment.

Removal,
substitution
or addition

(2) An assignee may be removed and another substituted or an additional assignee appointed by the judge.

(3) Where an assignee dies, a new assignee may be appointed in the manner provided by subsection (2). Death of assignee

(4) Where a new or additional assignee is appointed, the estate vests in him or in him jointly with his co-assignee without a conveyance or transfer, and he shall register a verified copy of the resolution of the creditors or of the order appointing him in the office in which the assignment was registered. Effect on estate

(5) A verified copy of the resolution or of the order may be registered in the proper land registry office and the registration thereof has the same effect as the registration of a conveyance. R.S.O. 1970, c. 34, s. 10. Registration

11.—(1) Except as otherwise provided in this section, the assignee has the exclusive right of suing for the rescission of agreements, deeds and instruments or other transactions made or entered into in fraud of creditors or in violation of this Act. Rights of assignee

(2) Where a creditor desires to cause any proceeding to be taken that, in his opinion, would be for the benefit of the estate and the assignee under the authority of the creditors or inspectors refuses or neglects to take such proceeding after being required so to do, the creditor has the right to obtain an order of the judge authorizing him to take the proceeding in the name of the assignee, but at his own expense and risk, upon such terms and conditions as to indemnity to the assignee as the judge prescribes, and thereupon any benefit derived from the proceeding, to the extent of his claim and full costs, belongs exclusively to the creditor instituting the proceeding for his benefit, but, if before such order is obtained the assignee signifies to the judge his readiness to institute the proceeding for the benefit of the creditors, the order shall prescribe the time within which he shall do so, and in that case the advantage derived from the proceeding, if instituted within such time, belongs to the estate. R.S.O. 1970, c. 34, s. 11. Right of creditor in certain cases if assignee refuses

12.—(1) In the case of a gift, conveyance, assignment or transfer of any property, real or personal, that is invalid against creditors, if the person to whom the gift, conveyance, assignment or transfer was made has sold or disposed of, realized or collected the property or any part thereof, the money or other proceeds may be seized or recovered in an action by a person who would be entitled to seize and recover the property if it had remained in the possession or control of the debtor or of the person to whom the gift, conveyance, transfer, delivery or payment was made, Following proceeds of property fraudulently transferred

and such right to seize and recover belongs not only to an assignee for the general benefit of the creditors of the debtor but, where there is no such assignment, to all creditors of the debtor.

Taking proceeds under execution

R.S.O. 1980, c. 103

(2) Where there is no assignment for the benefit of creditors and the proceeds are of such a character as to be seizable under execution, they may be seized under the execution of any creditor and are subject to the *Creditors' Relief Act*.

Creditor suing on behalf of himself and other creditors

(3) Where there is no assignment for the benefit of creditors and whether the proceeds are or are not of such a character as to be seizable under execution, an action may be brought therefor by a creditor, whether an execution creditor or not, on behalf of himself and all other creditors, or such other proceedings may be taken as are necessary to render the proceeds available for the general benefit of the creditors.

Protection of innocent purchasers

(4) This section does not apply as against innocent purchasers of the property. R.S.O. 1970, c. 34, s. 12.

Assignments take precedence over attachments, etc.

13. An assignment for the general benefit of creditors under this Act takes precedence over attachments, garnishee orders, judgments, executions not completely executed by payment, and orders appointing receivers by way of equitable execution subject to the lien, if any, of an execution creditor for his costs where there is but one execution in the sheriff's hands or to the lien, if any, for the costs of the creditor who has the first execution in the sheriff's hands. R.S.O. 1970, c. 34, s. 13.

Waiver of claims by Crown

14. Where the Crown has a claim in respect of estreated bail against the estate of a person who makes an assignment for the benefit of his creditors, the Lieutenant Governor in Council may waive any preference in respect of such claim that the Crown has against such estate by virtue of its prerogative right. R.S.O. 1970, c. 34, s. 14.

Amendment by judge

15. No advantage shall be obtained by any creditor by reason of any mistake, defect or imperfection in an assignment under this Act for the general benefit of creditors if the assignment can be amended or corrected, and any such mistake, defect or imperfection shall be amended by the judge on the application of the assignee or of any creditor of the assignor, and on such notice to other parties concerned as the judge thinks reasonable, and the amendment, when made, shall be related back to the date of the assignment, but not so as to prejudice the rights of innocent purchasers. R.S.O. 1970, c. 34, s. 15.

16.—(1) A notice of the assignment shall, forthwith after the delivery thereof to him or his assent thereto, be published by the assignee at least once in *The Ontario Gazette* and not less than twice in a newspaper having a general circulation in the county or district in which the property assigned is situate.

Publishing
notice of
assignment

(2) The assignment or a copy thereof shall also, within five days from the execution thereof, be registered by the assignee, together with an affidavit of a witness thereto of the due execution of the assignment, in the office of the clerk of the county or district court of the county or district in which the assignor, if a resident in Ontario, resided at the time of the execution thereof, or if not a resident then in the office of the clerk of the county or district court of the county or district where the personal property so assigned or where the principal part thereof is at the time of the execution of the assignment, and the clerk shall number and enter the assignments and endorse thereon the time of receiving them, and they shall be open for the inspection of all persons desiring to inspect them.

Registering
assignment

(3) The clerk is entitled to the same fees for services as if the assignment had been registered under the *Personal Property Security Act*.

Fees of
clerk
R.S.O. 1980,
c. 375

(4) For the purposes of subsection (2), the Provisional County of Haliburton shall be deemed part of the County of Victoria.
R.S.O. 1970, c. 34, s. 16.

Haliburton

17.—(1) If the notice is not published as provided by section 16 or if the assignment is not registered within five days from the delivery thereof to the assignee or his assent thereto, the assignee is liable to a penalty of \$10 for each day during which the default continues.

Penalty for
neglecting
publication
or
registration

(2) The burden of proving the time of such delivery or assent is upon the assignee.

Onus of
proof

(3) Where the assignment is made to a sheriff, he shall not incur the penalty unless he has been paid or tendered the cost of advertising and of registering the assignment, nor is he bound to act under the assignment until his costs in that behalf are paid or tendered to him. R.S.O. 1970, c. 34, s. 17.

Liability of
sheriff

18. If the assignment is not registered or notice thereof is not published, the judge may, upon the application of any person interested in the assignment, by order enforce the registration of the assignment or the publication of the notice. R.S.O. 1970, c. 34, s. 18.

Compelling
publication
and
registration

Omission
to publish,
etc.

19. The omission to publish or register as required by section 16 does not, nor does any irregularity in the publication of registration, invalidate the assignment. R.S.O. 1970, c. 34, s. 19.

Duty to
call meeting
of creditors

20.—(1) It is the duty of the assignee immediately to inform himself, by reference to the assignor and his records of account, of the names and residences of the assignor's creditors, and, within five days from the date of the assignment, to call a meeting of the creditors for the appointment of inspectors and the giving of directions with reference to the disposal of the estate by sending by registered mail to every creditor known to him a notice calling the meeting to be held in his office or some other convenient place to be named in the notice not later than twelve days after the mailing thereof, and by advertisement in *The Ontario Gazette*.

Other
meetings

(2) All other meetings to be held shall be called in like manner. R.S.O. 1970, c. 34, s. 20.

Appointment
of inspectors

21.—(1) The creditors at any meeting may appoint one or more inspectors who shall superintend and direct the proceedings of the assignee in the management and winding up of the estate, and the creditors may also at any subsequent meeting for that purpose revoke the appointment of any inspector.

Appointment
of another
inspector

(2) Where the appointment of an inspector is revoked or where an inspector dies, resigns his office or leaves Ontario, the creditors at any meeting may appoint another inspector to take his place.

Inspector
not to
purchase
assets

(3) An inspector shall not directly or indirectly purchase any part of the stock in trade, debts or other assets of the assignor. R.S.O. 1970, c. 34, s. 21.

Meeting of
creditors by
request of
majority
thereof

22.—(1) In the case of a request in writing signed by a majority of the creditors having claims duly proved of \$100 and upwards, computed according to section 24, it is the duty of the assignee, within two days after receiving the request, to call a meeting of the creditors for a day not later than twelve days after he receives the request, and in case of default the assignee shall incur a penalty of \$25 for every day after the expiration of the time limited for calling the meeting until it is called.

Power of
judge

(2) In case a sufficient number of creditors do not attend the meeting mentioned in section 20 or fail to give directions with reference to the disposal of the estate, the judge may give such directions as he considers necessary for that purpose. R.S.O. 1970, c. 34, s. 22.

23. At any meeting of creditors, the creditors may vote ^{Voting at meeting} in person or by proxy authorized in writing, but no creditor whose vote is disputed is entitled to vote until he has filed with the assignee an affidavit in proof of his claim, stating the amount and nature thereof. R.S.O. 1970, c. 34, s. 23.

24.—(1) Subject to section 10, all questions at meetings ^{Scale of votes} of creditors shall be decided by the majority of votes, and for such purpose the votes of creditors shall be calculated as follows:

1. For every claim of or over \$100 and not exceeding \$200, one vote.
2. For every claim over \$200 and not exceeding \$500, two votes.
3. For every claim over \$500 and not exceeding \$1,000, three votes.
4. For every additional \$1,000 or fraction thereof, one vote.

(2) No person is entitled to vote on a claim acquired ^{Upon claims acquired after assignment} after the assignment unless the entire claim is acquired, but this does not apply to persons acquiring notes, bills or other securities upon which they are liable.

(3) In the case of a tie, the assignee or, if there are ^{Casting vote} two assignees, the assignee nominated for that purpose by the creditors or by the judge, if none has been nominated by the creditors, has a casting vote.

(4) Every creditor in his proof of claim shall state whether ^{Valuing securities} he holds any security for his claim or any part thereof, and if such security is on the estate of the assignor or on the estate of a third person for whom the assignor is only secondarily liable, he shall put a specified value thereon and the assignee, under the authority of the creditors, may either consent to the creditor ranking for the claim after deducting such valuation or he may require from the creditor an assignment of the security at an advance of 10 per cent upon the specified value to be paid out of the estate as soon as the assignee has realized the security, and in such case the difference between the value at which the security is retained and the amount of the gross claim of the creditor is the amount for which he shall rank and vote in respect of the estate.

Right to
revalue in
certain cases

(5) If a creditor's claim is based upon a negotiable instrument upon which the assignor is only indirectly or secondarily liable and that is not mature or exigible, the creditor shall be considered to hold security within the meaning of this section and shall put a value on the liability of the person primarily liable thereon as being his security for the payment thereof, but after the maturity of such liability and its non-payment he is entitled to amend his claim and revalue his security.

Where
creditor
holding
security
fails to
value it

(6) Where a person claiming to be entitled to rank on the estate holds security for his claim, or any part thereof, of such a nature that he is required by this Act to value the security and he fails to value it, the judge, upon summary application by the assignee or by any other person interested in the estate, of which application at least three days notice shall be given to the claimant, may order that, unless a specified value be placed on the security and the assignee is notified in writing within a time to be limited by the order, the claimant is, in respect of the claim, or the part thereof for which the security is held in case the security is held for part only of the claim, wholly barred of any right to share in the proceeds of the estate.

Conse-
quences of
neglect of
order

(7) If a specified value is not placed on the security or the assignee is not notified in writing according to the exigency of the order or within such further time as the judge by subsequent order allows, the claim, or the part, as the case may be, is wholly barred as against the estate, but without prejudice to the liability of the assignor therefor. R.S.O. 1970, c. 34, s. 24.

Proof of
claim

25.—(1) Every person claiming to be entitled to rank on the estate shall furnish to the assignee particulars of his claim proved by affidavit and such vouchers as the nature of the case admits.

Limiting
time for
proof of
claim

(2) Where a person claiming to be entitled to rank on the estate does not, within a reasonable time after receiving notice of the assignment and of the name and address of the assignee, furnish to the assignee satisfactory proofs of his claim as provided by this and the preceding sections, the judge upon summary application by the assignee or by any other person interested in the estate, of which application at least three days notice shall be given to the claimant, may order that unless the claim is proved to the satisfaction of the judge within a time to be limited by the order, the claimant shall be deemed to be no longer a creditor of the estate and is wholly barred of any right to share in the proceeds thereof.

(3) If the claim is not so proved within the time so limited or within such further time as the judge by subsequent order allows, it is wholly barred and the assignee is at liberty to distribute the proceeds of the estate as if no such claim existed, but without prejudice to the liability of the assignor therefor.

Consequences of neglect to prove claim

(4) Subsections (2) and (3) do not interfere with the protection afforded to assignees by section 53 of the *Trustee Act*.

Not to interfere with R.S.O. 1980, c. 512

(5) A person whose claim has not accrued due is nevertheless entitled to prove under the assignment and to vote at meetings of creditors, but in ascertaining the amount of any such claim a deduction for interest shall be made for the time that has to run until the claim becomes due. R.S.O. 1970, c. 34, s. 25.

Creditor may prove claim not due

26.—(1) At any time after the assignee receives from any person claiming to be entitled to rank on the estate proof of his claim, notice of contestation of the claim may be served by the assignee upon the claimant.

Contestation of claim

(2) Within thirty days after the receipt of the notice, or within such further time as the judge allows, an action shall be brought by the claimant against the assignee to establish the claim, and a copy of the writ in the action, or of the summons in case the action is brought in a small claims court, shall be served on the assignee, and in default of such action being brought and writ or summons served within the time limited the claim to rank on the estate is forever barred.

Limitation

(3) The notice by the assignee shall contain the name and place of business of a solicitor upon whom service of the writ or summons may be made, and service upon him shall be deemed sufficient service.

Service on solicitor of assignee

(4) Where prior to the assignment an action has been commenced against the assignor and is pending at the time of the assignment, the assignee may, by notice served upon the plaintiff in the action, require him to proceed, and he is bound to proceed in that action to establish his claim, instead of bringing an action against the assignee as provided for by subsection (2), and the plaintiff may thereupon apply to the court in which the action is brought for an order adding the assignee as a party defendant in the action, and the assignee may be so added upon such terms as to the costs that may be subsequently incurred as the court or a judge thereof, or the judge making the order, directs. R.S.O. 1970, c. 34, s. 26.

Right of assignee to compel plaintiff to proceed with action against assignor

Procedure
where
assignee
is satisfied
but assignor
desires to
dispute

27.—(1) If the assignee is satisfied with the proof adduced in support of a claim but the assignor disputes it, the assignor shall do so by notice in writing to the assignee, stating the grounds upon which he disputes the claim, and the notice shall be given within ten days after the assignor is notified in writing by the assignee that he is satisfied with the proof adduced and not afterwards unless by leave of the judge.

Where
assignee
does not
require
action to be
brought

(2) If upon receiving such notice of dispute the assignee does not consider it proper to require the claimant to bring an action to establish his claim, he shall notify the assignor in writing of the fact, and the assignor may thereupon, and within ten days of his receiving such notice, apply to the judge for an order requiring the assignee to serve a notice of contestation.

Conditions

(3) The order shall be made only if, after notice to the assignee, the judge is of opinion that there are good grounds for contesting the claim.

Where
decision of
assignee
final

(4) If the assignor does not make such an application, the decision of the assignee is, as against him, final and conclusive.

Decision of
judge on
validity of
claim

(5) If upon the application the claimant consents in writing, the judge may in a summary manner decide the question of the validity of the claim.

Intervention
by assignor
at trial

(6) If an action is brought by the claimant against the assignee, the assignor may intervene at the trial either personally or by counsel for the purpose of calling and examining or cross-questioning witnesses. R.S.O. 1970, c. 34, s. 27.

Retention of
assets in
Ontario
and deposit
of moneys

28.—(1) No property or assets of an estate assigned under this Act shall be removed out of Ontario without the order of the judge, and the proceeds of the sale of any such property or assets and all moneys received on account of any estate shall be deposited by the assignee in a chartered bank in Ontario and shall not be withdrawn or removed without the order of the judge, except in payment of dividends and charges incidental to winding up the estate.

Penalty

(2) An assignee or any person acting in his stead who contravenes this section is liable to a penalty of \$500.

Application
of penalty

(3) One-half of the penalty goes to the person suing therefor and the other half belongs to the estate.

(4) In default of payment of the penalty and all costs incurred in an action or proceeding for the recovery thereof within the time limited by the judgment, the court in which the action is brought may order that such assignee or person may be imprisoned for any period not exceeding thirty days, and such assignee or person is disqualified from acting as assignee of any estate while the default continues. R.S.O. 1970, c. 34, s. 28.

29. Upon the expiration of one month from the first meeting of creditors or as soon as may be thereafter and afterwards from time to time at intervals of not more than three months, the assignee shall prepare, and keep constantly accessible to the creditors, accounts and statements of his doings as assignee and of the position of the estate. R.S.O. 1970, c. 34, s. 29.

30. The law of set-off applies to all claims made against the estate, and also to all actions instituted by the assignee for the recovery of debts due to the assignor, in the same manner and to the same extent as if the assignor were plaintiff or defendant, as the case may be, except in so far as any claim for set-off is affected by this or any other Act respecting frauds or fraudulent preferences. R.S.O. 1970, c. 34, s. 30.

31. As large a dividend as can be paid with safety shall be paid by every assignee within twelve months from the date of the assignment, and earlier if required by the inspectors, and thereafter a further dividend shall be paid every six months and more frequently if required by the inspectors, until the estate is wound up and disposed of. R.S.O. 1970, c. 34, s. 31.

32. As soon as a dividend sheet is prepared, notice thereof shall be given by registered mail to each creditor, enclosing an abstract of receipts and disbursements, showing what interest has been received by the assignee for money in his hands, together with a copy of the dividend sheet, noting thereon the claims objected to, and stating whether any reservation has or has not been made therefor, and after the expiry of eight days from the date of mailing the notice, abstract and dividend sheet, dividends on all claims not objected to within that period shall be paid. R.S.O. 1970, c. 34, s. 32.

33.—(1) The assignee may take the proceedings authorized by section 32 of the *Creditors' Relief Act* to be taken by a sheriff, and in that case sections 32 and 33 of that Act apply with necessary modifications to proceedings for the distribution of money and determination of claims arising under an assignment

made under this Act, with the substitution of "assignee" for "sheriff", but this section does not relieve the assignee from mailing to each creditor the abstract and other information required by section 32 of this Act to be sent to creditors so far as the same is not contained in the list sent by him under section 32 of the *Creditors' Relief Act*.

R.S.O. 1980,
c. 103

To what
judge
application
to be made

(2) A judge of the county or district court of the county or district where the assignment is required to be registered is the judge to whom applications under this section shall be made. R.S.O. 1970, c. 34, s. 33.

Remunera-
tion of
assignee

34. The assignee shall receive such remuneration as is voted to him by the creditors at a meeting called for the purpose after the first dividend sheet has been prepared, or by the inspectors, in case the creditors fail to provide therefor, subject to review by the judge upon complaint of the assignee or of any creditor. R.S.O. 1970, c. 34, s. 34.

Where re-
munera-
tion not fixed
before the
final
dividend

35. Where the remuneration of the assignee has not been fixed under section 34 before the final dividend, the assignee may insert in the final dividend sheet, and retain as his remuneration, a sum not exceeding 5 per cent of the cash receipts, subject to review by the judge, but no application by the assignee to review the allowance shall be entertained unless the question of his remuneration has been brought before a meeting of creditors competent to decide the same before the preparation of the final dividend sheet. R.S.O. 1970, c. 34, s. 35.

Remunera-
tion of
inspectors

36.—(1) An assignee shall not make any payment or allowance to an inspector beyond his actual and necessary travelling expenses in and about his duties as inspector except under the authority of a resolution of the creditors passed at a meeting regularly called fixing the amount thereof, and in the notice calling the meeting the fixing of the remuneration of the inspectors shall be specially mentioned as one of the subjects to be brought before the meeting.

Limit of
allowance

(2) An inspector shall not be allowed more than \$4 a day besides his actual travelling expenses. R.S.O. 1970, c. 34, s. 36.

Examination
of assignor
or
employees

37.—(1) Upon a resolution passed by a majority vote of the creditors present or represented at a meeting of creditors regularly called, or upon the written request of a majority of the inspectors, or upon an order made by the judge, the assignee may examine upon oath before a master, local master, local registrar, judge of the county or district court, special examiner, official referee or any other person

named in the order, the assignor or any person who is or has been his agent, clerk, servant, officer or employee of any kind, touching the estate and effects of the assignor, and as to the property and means he had when the assignment was incurred, and as to the property and means he still has of discharging his debts and liabilities, and as to the disposal he has made of any property since contracting such debt or incurring such liability, and as to any and what debts are owing to him, and the person examined may be required by the assignee to produce upon such examination any property, book, document or paper in his custody, power or control.

(2) Unless otherwise ordered, the examination shall take place in the county or district in which the person to be examined resides. Where examination to take place

(3) The rules and procedure of the Supreme Court as to the examination of a judgment debtor, or any clerk or employee or former clerk or employee of a judgment debtor, so far as may be, apply to an examination held under subsection (1). Procedure on examination R.S.O. 1970, c. 34, s. 37.

38. Any person who has or is believed or suspected of having in his possession or power any book, document or paper of any kind relating in whole or in part to the assignor, his dealings or property and who refuses or fails to produce such book, document or paper for the inspection of the assignee within four days after demand in writing by the assignee may by order of the judge be examined before the judge or any of the officers mentioned in section 37 touching such book, document or paper, and he is subject to the same consequences in the case of neglect to attend or refusal to disclose the matters in respect of which he may be examined or to make such production as is mentioned in section 40. Examination of persons having custody of property of assignor R.S.O. 1970, c. 34, s. 38.

39. If the assignor does not attend for examination and does not allege a sufficient excuse for not attending or, if attending, he refuses to disclose his property or his transactions respecting his property or does not make satisfactory answers respecting his property or if it appears from such examination that the assignor has concealed or made away with his property in order to defeat or defraud his creditors or any of them, the judge may order the assignor to be committed to a correctional institution in the county or district in which he resides for any period not exceeding twelve months. When assignor does not attend or refuses to answer questions R.S.O. 1970, c. 34, s. 39.

Compelling
attendance
and
production
of books

40. Any person, other than the assignor, liable to be examined is subject to the same consequences in case of neglect to attend or refusal to disclose the matters in respect of which he may be examined or to make production as a witness in an action in the Supreme Court. R.S.O. 1970, c. 34, s. 40.

CHAPTER 34

Athletics Control Act

1. In this Act,

Interpre-
tation

- (a) "Commissioner" means the Athletics Commissioner;
- (b) "Minister" means the Minister of Consumer and Commercial Relations or such other member of the Executive Council to whom the administration of this Act is assigned by the Lieutenant Governor in Council;
- (c) "official" includes an examiner, judge, master of ceremonies, legally qualified medical practitioner, referee and timekeeper;
- (d) "person" includes a corporation, association, club and any unincorporated organization;
- (e) "professional contest or exhibition" means a professional contest or exhibition of baseball, bicycle riding, boxing, dancing, golf, hockey, jai-alai, lacrosse, motorcycle riding, physical prowess whether by contortion or otherwise, rowing, rugby, running, skating whether speed skating or figure skating, soccer, swimming, tennis, wrestling or any professional contest or exhibition of any other sport or game designated by the Lieutenant Governor in Council. R.S.O. 1970, c. 35, s. 1; O. Reg. 258/79.

2. The administration of this Act is under the direction and control of the Minister. R.S.O. 1970, c. 35, s. 2.

Direction
and control

3. An Athletics Commissioner shall be appointed by the Lieutenant Governor in Council. R.S.O. 1970, c. 35, s. 3.

Athletics
Commis-
sioner

4.—(1) The Commissioner may issue licences under this Act and the regulations.

Functions
of Com-
missioner

(2) The Commissioner shall assist, promote and encourage amateur sport in community recreation centres under the *Community Recreation Centres Act* and associations of amateur sportsmen.

Idem
R.S.O. 1980,
c. 80

(3) The Commissioner is responsible for the supervision of professional contests and exhibitions and, under the direction and control of the Minister, shall assist in the administration of this Act and the regulations. R.S.O. 1970, c. 35, s. 4.

Idem

Tax

5.—(1) Every person conducting a professional boxing or wrestling contest or exhibition shall pay to the Minister an amount not less than 1 per cent and not more than 5 per cent of the gross receipts in respect of such contest or exhibition as shall be determined by the Minister with the approval of the Lieutenant Governor in Council.

Reduction
of tax

(2) Where a professional contest or exhibition is not the sole or main attraction offered at a presentation or exhibition for which admission is charged, the Minister may accept such amount as in the circumstances he considers proper in lieu of the percentage of the gross receipts payable under subsection (1).

Idem

(3) If the Minister is satisfied that the entire proceeds of a professional contest or exhibition are for charitable purposes, he may accept such amount as in the circumstances he considers proper in lieu of the percentage of the gross receipts payable under subsection (1).

Remission
of tax

(4) Every person conducting a professional contest or exhibition shall, within three days of the holding of such contest or exhibition, remit to the Minister by registered mail the amount payable under subsection (1).

Offence

(5) Every person who conducts or participates in conducting or holding a professional contest or exhibition and who fails to comply with this section, in addition to the payment of the amounts provided in subsection (1), is guilty of an offence and on conviction is liable to a fine or not less than an amount equal to such amounts. R.S.O. 1970, c. 35, s. 5.

Impounding
of boxing
and
wrestling
purses, etc.

6.—(1) Where the Commissioner or any other person charges,

- (a) that a boxing or wrestling contest or exhibition was conducted in contravention of this Act or the regulations; or
- (b) that an agreement, contract or undertaking with respect to any boxing or wrestling contest or exhibition was entered into in contravention of this Act or the regulations; or
- (c) that the conduct of a person connected with or participating in a boxing or wrestling contest or exhibition was in contravention of this Act or the regulations or was not in the interest of boxing or wrestling,

the Commissioner may order any person to deliver to him forthwith any moneys that were paid or may be payable in connection with such contest or exhibition and such moneys shall be impounded by him pending the disposition of the charge.

(2) The Minister may direct the Commissioner or any other person to hold an investigation into the charge so made and to report thereon to him and, if in his opinion the charge has been proven, he may declare the moneys impounded to be forfeited, and such moneys thereupon become the property of the Crown.

(3) If the Minister does not direct an investigation or if he is of the opinion that the charge has not been proven, he shall order any moneys impounded to be released.

(4) Every person who fails to deliver moneys to the Commissioner in pursuance of an order made under subsection (1) is guilty of an offence and on conviction is liable to a fine of not less than an amount equal to twice the amount of the moneys ordered to be delivered. R.S.O. 1970, c. 35, s. 6.

7. The Minister may direct the Commissioner or any other person to hold an investigation,

(a) where a branch of the Amateur Athletic Union of Canada in Ontario or a league, body or person connected with amateur sport operating in Ontario requests the Minister to cause an investigation to be held into any matter that the branch, league, body or person considers should be investigated in the interest of amateur sport in Ontario; or

(b) upon any matter that is considered by the Minister to be in the public interest. R.S.O. 1970, c. 35, s. 7.

8. For the purposes of an investigation under section 6 or 7, the Commissioner or other person holding such investigation has the powers of a commission under Part II of the *Public Inquiries Act*, which Part applies to the investigation as if it were an inquiry under that Act. R.S.O. 1970, c. 35, s. 8; 1971, c. 49, s. 18.

9. The moneys received by the Minister under section 5, together with all moneys received from licence and permit fees, fines and other pecuniary penalties and the impounding of purses or other remuneration, shall be paid into the Consolidated Revenue Fund. R.S.O. 1970, c. 35, s. 9.

Prohibiting
use of
building

10.—(1) Where moneys payable to the Minister under this Act or the regulations in respect of a professional contest or exhibition or a contest or exhibition of amateur boxing or wrestling are not received by the Minister within one week of the holding of such contest or exhibition, the Minister may direct that the building or other place where such contest or exhibition was held shall not be used for the holding of any professional contest or exhibition or any contest or exhibition of amateur boxing or wrestling until such moneys have been paid to the Minister.

Offence

(2) Where notice in writing of a direction made under subsection (1) is served upon or sent by registered mail to the owner, lessee or other person having control over the building or other place, such owner, lessee or other person is guilty of an offence and on conviction is liable to a fine of not less than \$20 and not more than \$100 in respect of every professional contest or exhibition or contest or exhibition of amateur boxing or wrestling held in such building or at such place during the continuance in force of such direction. R.S.O. 1970, c. 35, s. 10.

Contracts
to manage
professional
boxers and
wrestlers

11. A contract or agreement entered into for the management of a person taking part in professional boxing or wrestling contests or exhibitions, or for the taking part in any such contest or exhibition, is not valid or of any force or effect unless it is in writing signed by the parties thereto and approved by the Commissioner, and the Commissioner may at any time, by notice in writing to the parties, revoke any approval given by him and thereupon the contract or agreement is for all purposes void and of no effect. R.S.O. 1970, c. 35, s. 11.

Powers of
Commissioner

12.—(1) The Commissioner may,

- (a) delegate to any person any of the powers or duties conferred or imposed upon him by this Act or the regulations;
- (b) designate the officials for any professional contest or exhibition or any amateur boxing or wrestling contest or exhibition and fix the fees that shall be paid to them by the person holding the contest or exhibition.

Admission
to contests
and
exhibitions

(2) The Commissioner or a person to whom he has delegated any of his powers or duties shall be admitted without charge to professional contests and exhibitions and amateur boxing and wrestling contests and exhibitions. R.S.O. 1970, c. 35, s. 12.

13.—(1) Subject to the approval of the Lieutenant Governor in Council, the Minister may make regulations, ^{Regulations}

(a) prescribing the powers and duties of the Commissioner;

(b) authorizing the Commissioner,

(i) to order any amateur or professional boxing contest or exhibition to be stopped if he considers it necessary,

(ii) to approve the persons who may take part in professional boxing contests or exhibitions of more than ten three-minute rounds,

(iii) to designate the time and place of weighing-in for amateur and professional boxers and wrestlers,

(iv) to prescribe the time limit for amateur and professional boxing and wrestling contests and exhibitions,

(v) to direct a professional boxing contest or exhibition to be held notwithstanding a boxer under contract to take part therein is overweight,

(vi) to settle disputes referred to him by professional boxers and persons holding professional boxing contests or exhibitions,

(vii) to permit a substitute for a boxer who is unable or refuses to take part in a professional boxing contest or exhibition, and

(viii) to determine the announcements that may be made from the ring in amateur and professional boxing and wrestling contests and exhibitions in addition to those authorized by the regulations;

(c) prescribing the equipment to be used for and the rules applicable to the conduct of amateur and professional boxing and wrestling contests and exhibitions, including the appointment and duties of the officials of the contests and exhibitions, the definition of fouls and the manner of determining the winners;

- (d) providing for the issuing of licences and permits for the holding of amateur and professional boxing and wrestling contests and exhibitions and for the suspension and cancellation of such licences and the cancellation of such permits;
- (e) providing for the licensing of amateur and professional boxers and wrestlers, managers of professional boxers and wrestlers, referees, seconds and other officials officiating at amateur or professional boxing or wrestling contests or exhibitions and for the suspension and cancellation of such licences;
- (f) providing for the payment of fees for licences and permits and the manner of collecting such fees;
- (g) providing for payment to the Minister of a fee or charge by way of a licence fee or otherwise in respect of the holding of any amateur boxing or wrestling contest or exhibition and for the manner of collecting such fee or charge;
- (h) authorizing the Commissioner to levy fines or other pecuniary penalties against officials or against persons who are the holders or who by the regulations are required to be the holders of licences under this Act for failure to comply with any provision of this Act or of the regulations;
- (i) prescribing the forms of contracts to be used in connection with the services and management of professional boxers and wrestlers;
- (j) prescribing the duties of persons holding amateur or professional boxing or wrestling contests or exhibitions;
- (k) prescribing the security to be furnished to the Commissioner by persons holding professional boxing or wrestling contests or exhibitions to ensure payment of officials and contestants and the amount payable to the Minister under section 5;
- (l) regulating the holding and conduct of professional contests or exhibitions of dancing, swimming, rowing and tennis;
- (m) prescribing the classes of persons who may take part in amateur and professional boxing and wrestling contests and exhibitions;

(n) defining "amateur" and "professional" for the purposes of this Act and the regulations;

(o) respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act.

(2) Every person who contravenes any provision of this Act or of the regulations is guilty of an offence and on conviction is liable, if no other penalty is provided, to a fine of not less than \$20 and not more than \$1,000. ^{General penalty}

(3) Where a fine or other pecuniary penalty has been levied by the Commissioner under the regulations and such fine or other penalty has been paid, no proceedings shall be taken under the *Provincial Offences Act* in respect of the same matter. ^{Duplication of penalties} R.S.O. 1980, c. 400

CHAPTER 35

Audit Act

1. In this Act,

Interpre-
tation

- (a) “agency of the Crown” means an association, authority, board, commission, corporation, council, foundation, institution, organization or other body,
- (i) whose accounts the Auditor is appointed to audit by its shareholders or by its board of management, board of directors or other governing body,
- (ii) whose accounts are audited by the Auditor under any other Act or whose accounts the Auditor is appointed by the Lieutenant Governor in Council to audit,
- (iii) whose accounts are audited by an auditor, other than the Auditor, appointed by the Lieutenant Governor in Council, or
- (iv) the audit of the accounts of which the Auditor is required to direct or review or in respect of which the auditor’s report and the working papers used in the preparation of the auditor’s statement are required to be made available to the Auditor under any other Act,

but does not include one that the *Crown Agency Act* states is not affected by that Act or that any other Act states is not a Crown agency within the meaning or for the purposes of the *Crown Agency Act*;

R.S.O. 1980,
c. 106

- (b) “Assistant Auditor” means the Assistant Provincial Auditor;
- (c) “Auditor” means the Provincial Auditor;
- (d) “Board” means the Board of Internal Economy referred to in section 84 of the *Legislative Assembly Act*;

R.S.O. 1980,
c. 235

(e) "Crown controlled corporation" means a corporation that is not an agency of the Crown and having 50 per cent or more of its issued and outstanding shares vested in Her Majesty in right of Ontario or having the appointment of a majority of its board of directors made or approved by the Lieutenant Governor in Council;

R.S.O. 1980,
c. 291

(f) "fiscal year" has the same meaning as in the *Ministry of Treasury and Economics Act*;

(g) "inspection audit" means an examination of accounting records;

(h) "Office of the Auditor" means the Office of the Provincial Auditor;

R.S.O. 1980,
c. 161

(i) "public money" has the same meaning as in the *Financial Administration Act*. 1977, c. 61, s. 1; 1979, c. 34, s. 1.

Office
of the
Auditor

2. The Office of the Provincial Auditor shall consist of the Auditor, the Assistant Auditor and such employees as may be required from time to time for the proper conduct of the business of the Office. 1977, c. 61, s. 2.

Provincial
Auditor

3. The Auditor shall be appointed as an officer of the Assembly by the Lieutenant Governor in Council on the address of the Assembly after consultation with the chairman of the standing Public Accounts Committee of the Assembly. 1977, c. 61, s. 3.

Tenure of
office and
removal

4. The Auditor may hold office until the end of the month in which he attains the age of sixty-five years and may be reappointed for a period not exceeding one year at a time until the end of the month in which he attains seventy years of age, but is removable at any time for cause by the Lieutenant Governor in Council on the address of the Assembly. 1977, c. 61, s. 4.

Salary of
Auditor

5.—(1) The Auditor shall be paid a salary within the highest range of salaries paid to deputy ministers in the Ontario civil service and is entitled to the privileges of office of a senior deputy minister.

Idem

(2) The salary of the Auditor, within the salary range referred to in subsection (1), shall be determined and reviewed annually by the Board.

(3) The salary of the Auditor shall be charged to and paid out of the Consolidated Revenue Fund. 1977, c. 61, s. 5. Idem

6.—(1) The Assistant Auditor shall be appointed as an officer of the Assembly by the Lieutenant Governor in Council upon the recommendation of the Auditor. Assistant Auditor

(2) The Assistant Auditor, under the direction of the Auditor, shall assist in the exercise of the powers and the performance of the duties of the Auditor and, in the absence or inability to act of the Auditor, shall act in the place of the Auditor. 1977, c. 61, s. 6. Idem

7. The persons appointed as Auditor and Assistant Auditor shall be persons who are licensed under the *Public Accountancy Act*. 1977, c. 61, s. 7. Qualifications
R.S.O. 1980,
c. 405

8. The Provincial Auditor and the Assistant Provincial Auditor holding office under *The Audit Act*, being chapter 36 of the Revised Statutes of Ontario, 1970, immediately before the 1st day of April, 1978 shall be deemed to be appointed under this Act. 1977, c. 61, s. 8, *revised*. Transitional

9.—(1) The Auditor shall audit, on behalf of the Assembly and in such manner as the Auditor considers necessary, the accounts and records of the receipt and disbursement of public money forming part of the Consolidated Revenue Fund whether held in trust or otherwise. Audit of
Consolidated
Revenue
Fund

(2) Where the accounts and financial transactions of an agency of the Crown are not audited by another auditor, the Auditor shall perform the audit, and, notwithstanding any provision of any other Act, where the accounts and financial transactions of an agency of the Crown are audited by another auditor, the audit shall be performed under the direction of the Auditor and such other auditor shall report to the Auditor. Audit of
agencies
of the
Crown

(3) Where the accounts of a Crown controlled corporation are audited other than by the Auditor, the person or persons performing the audit, Audit of
Crown
controlled
corporations

(a) shall deliver to the Auditor forthwith after completion of the audit a copy of their report of their findings and their recommendations to the management and a copy of the audited financial statements of the corporation;

- (b) shall make available forthwith to the Auditor, when so requested by the Auditor, all working papers, reports, schedules and other documents in respect of the audit or in respect of any other audit of the corporation specified in the request;
- (c) shall provide forthwith to the Auditor, when so requested by the Auditor, a full explanation of work performed, tests and examinations made and the results obtained, and any other information within the knowledge of such person or persons in respect of the corporation.

Additional
examination
and
investigation

(4) Where the Auditor is of the opinion that any information, explanation or document that is provided, made available or delivered to him by the auditor or auditors referred to in subsection (2) or (3) is insufficient, the Auditor may conduct or cause to be conducted such additional examination and investigation of the records and operations of the agency or corporation as the Auditor considers necessary. 1977, c. 61, s. 9.

Information
and access
to records

10. Every ministry of the public service, every agency of the Crown and every Crown controlled corporation shall furnish the Auditor with such information regarding its powers, duties, activities, organization, financial transactions and methods of business as the Auditor from time to time requires, and the Auditor shall be given access to all books, accounts, financial records, reports, files and all other papers, things or property belonging to or in use by the ministry, agency of the Crown or Crown controlled corporation and necessary to the performance of the duties of the Auditor under this Act. 1977, c. 61, s. 10.

Accommoda-
tion in
ministries
and Crown
agencies

11. For the purposes of the exercise of his powers or the performance of his duties under this Act, the Auditor may station one or more members of the Office of the Auditor in any ministry of the public service, in any agency of the Crown and in any Crown controlled corporation and the ministry, agency or corporation shall provide such accommodation as is required for such purposes. 1977, c. 61, s. 11.

Annual
report

12.—(1) The Auditor shall report annually to the Speaker of the Assembly after each fiscal year is closed and the Public Accounts are laid before the Assembly, but not later than the 31st day of December in each year unless the Public Accounts are not laid before the Assembly by that day, and may make a special report to the Speaker at any time on any matter that in the opinion of the Auditor should not be deferred until the annual report, and the Speaker shall lay each such report before the Assembly

forthwith if it is in session or, if not, not later than the tenth day of the next session.

(2) In his annual report in respect of each fiscal year, ^{Contents of report} the Auditor shall report on,

- (a) the work of the Office of the Auditor, and on whether in carrying on the work of the Office the Auditor received all the information and explanations required;
- (b) the examination of accounts of receipts and disbursements of public money;
- (c) the examination of the statements of Assets and Liabilities, the Consolidated Revenue Fund and Revenue and Expenditure as reported in the Public Accounts, and shall express an opinion as to whether the statements present fairly the financial position of the Province, the results of its operations and the changes in its financial position in accordance with the accounting principles stated in the Public Accounts applied on a basis consistent with that of the preceding fiscal year together with any reservations the Auditor may have;
- (d) all special warrants issued to authorize payments, stating the date of each special warrant, the amount authorized and the amount expended;
- (e) all orders of the Management Board of Cabinet made to authorize payments in excess of appropriations, stating the date of each order, the amount authorized and the amount expended;
- (f) such matters as, in the opinion of the Auditor, should be brought to the attention of the Assembly including, without limiting the generality of the foregoing, any matter related to the audit of agencies of the Crown or Crown controlled corporations or any cases where the Auditor has observed that,
 - (i) accounts were not properly kept or public money was not fully accounted for,
 - (ii) essential records were not maintained or the rules and procedures applied were not sufficient to safeguard and control public property or to effectively check the assessment, collection and proper allocation of

revenue or to ensure that expenditures were made only as authorized,

- (iii) money was expended other than for the purposes for which it was appropriated,
- (iv) money was expended without due regard to economy and efficiency, or
- (v) where procedures could be used to measure and report on the effectiveness of programs, the procedures were not established or, in the opinion of the Auditor, the established procedures were not satisfactory. 1977, c. 61, s. 12.

Inspection
audit

13.—(1) The Auditor may perform an inspection audit in respect of a payment in the form of a grant from the Consolidated Revenue Fund or an agency of the Crown and may require a recipient of such a payment to prepare and to submit to the Auditor a financial statement that sets out the details of the disposition of the payment by the recipient.

Obstruction
of Auditor

(2) No person shall obstruct the Auditor or any member of the Office of the Auditor in the performance of an inspection audit or conceal or destroy any books, papers, documents or things relevant to the subject-matter of the inspection audit.

Offence

(3) Every person who knowingly contravenes subsection (2) and every director or officer of a corporation who knowingly concurs in such contravention is guilty of an offence and on conviction is liable to a fine of not more than \$2,000 or to imprisonment for a term of not more than one year, or to both.

Idem,
corporation

(4) Where a corporation is convicted of an offence under subsection (3), the maximum penalty that may be imposed upon the corporation is \$25,000 and not as provided therein. 1977, c. 61, s. 13.

Examination
on oath

14. The Auditor may examine any person on oath on any matter pertinent to any account subject to audit by the Auditor or in respect of any inspection audit by the Auditor and for the purpose of such an examination the Auditor has the powers conferred upon a commission under Part II of the *Public Inquiries Act*, which Part applies to the examination as if it were an inquiry under that Act. 1977, c. 61, s. 14.

R.S.O. 1980,
c. 411

Proviso

15. Nothing in this Act shall be construed to require the Auditor,

- (a) to report on any matter that, in the opinion of the Auditor, is immaterial or insignificant; or
- (b) to audit or direct the audit of or report on the accounts of a body not referred to in this Act in the absence of such a requirement in any other Act in respect of the body. 1977, c. 61, s. 15.

16. At the request of the standing Public Accounts Committee of the Assembly, the Auditor and any member of the Office of the Auditor designated by the Auditor shall attend at the meetings of the committee in order,

Attendance
at standing
Public
Accounts
Committee
of the
Assembly

- (a) to assist the committee in planning the agenda for review by the committee of the Public Accounts and the annual report of the Auditor; and
- (b) to assist the committee during its review of the Public Accounts and the annual report of the Auditor,

and the Auditor shall examine into and report on any matter referred to him in respect of the Public Accounts by a resolution of the committee. 1977, c. 61, s. 16.

17. The Auditor shall perform such special assignments as may be required by the Assembly, the standing Public Accounts Committee of the Assembly, by resolution of the committee, or by a minister of the Crown in right of Ontario but such special assignments shall not take precedence over the other duties of the Auditor under this Act and the Auditor may decline an assignment by a minister of the Crown that, in the opinion of the Auditor, might conflict with the other duties of the Auditor. 1977, c. 61, s. 17.

Special
assignments

18. The Auditor may advise appropriate persons employed in the public service of Ontario as to any matter that comes or that may come to the attention of the Auditor in the course of the exercise of his powers or the performance of his duties as Auditor. 1977, c. 61, s. 18.

Power to
advise

19. Audit working papers of the Office of the Auditor shall not be laid before the Assembly or any committee of the Assembly. 1977, c. 61, s. 19.

Audit
working
papers

20. Subject to the approval of the Board and to sections 22, 25 and 26, the Auditor may employ such professional staff and other persons as the Auditor considers necessary for the efficient operation of the Office of the Auditor and may determine the salary of

Staff

the Assistant Auditor and the salaries and remuneration, which shall be comparable to the salary ranges of similar positions or classifications in the public service of Ontario, and the terms and conditions of employment of the employees of the Office of the Auditor. 1977, c. 61, s. 20 (1).

Oath of
office and
secrecy and
oath of
allegiance

21.—(1) Every employee of the Office of the Auditor, before performing any duty as an employee of the Auditor, shall take and subscribe before the Auditor or a person designated in writing by the Auditor,

(a) the following oath of office and secrecy:

I, do swear (*or solemnly affirm*) that I will faithfully discharge my duties as an employee of the Provincial Auditor and will observe and comply with the laws of Canada and Ontario and, except as I may be legally required, I will not disclose or give to any person any information or document that comes to my knowledge or possession by reason of my being an employee of the Office of the Auditor.

So help me God. (Omit this line in an affirmation)

(b) the following oath of allegiance:

I, do swear (*or solemnly affirm*) that I will be faithful and bear true allegiance to Her Majesty Queen Elizabeth the Second (*or the reigning sovereign for the time being*), her heirs and successors according to law.

So help me God. (Omit this line in an affirmation)

Idem

(2) The Auditor may require any person or class of persons appointed to assist the Auditor for a limited period of time or in respect of a particular matter to take and subscribe either or both of the oaths set out in subsection (1).

Record
of oaths

(3) A copy of each oath administered to an employee of the Office of the Auditor under subsection (1) shall be kept in the file of the employee in the Office of the Auditor.

Cause for
dismissal

(4) The failure of an employee of the Office of the Auditor to take and subscribe or to adhere to either of the oaths required by subsection (1) may be considered as cause for dismissal. 1977, c. 61, s. 21.

Benefits
R.S.O. 1980,
c. 418

22.—(1) The employee benefits applicable from time to time under the *Public Service Act* to civil servants who are not within a unit of employees established for collective bargaining under any Act apply or continue to apply, as the case may be, to the Auditor, the Assistant Auditor and to the full-time permanent and probationary employees of the Office of the Auditor and the Board or

any person authorized by order of the Board may exercise the powers and duties of the Civil Service Commission and the Auditor or any person authorized in writing by the Auditor may exercise the powers and duties of a deputy minister under that Act in respect of such benefits.

(2) The *Public Service Superannuation Act* applies to the full-time permanent and probationary employees of the Office of the Auditor as though the Office of the Auditor were a commission designated by the Lieutenant Governor in Council under section 28 of that Act and to the Auditor and Assistant Auditor as though they were members of such a commission who held positions designated by and whose requests for such designations had been approved by the Lieutenant Governor in Council under section 28 of that Act and all credits in the Public Service Superannuation Fund of the full-time permanent and probationary employees of the Office of the Auditor and of the Auditor and the Assistant Auditor accumulated under that Act immediately before the 1st day of April, 1978 are preserved and continued in accordance with that Act. 1977, c. 61, s. 22, *revised*.

Super-
annuation
benefits
R.S.O. 1980,
c. 419

23. Subject to the approval of the Board, the Auditor from time to time may appoint one or more persons having technical or special knowledge of any kind to assist the Auditor for a limited period of time or in respect of a particular matter and the moneys required for the purposes of this section shall be charged to and paid out of the Consolidated Revenue Fund. 1977, c. 61, s. 23.

Expert
assistance

24. The Auditor may delegate in writing to any other member of the Office of the Auditor authority to exercise any power or perform any duty of the Auditor other than reporting to the Assembly. 1977, c. 61, s. 24.

Delegation
of authority

25.—(1) An employee of the Office of the Auditor shall not,

Political
activities
of employees
of the Office
of the Auditor

(a) be a candidate in a provincial or federal election or in an election for any municipal office including a local board of a municipality within the meaning of the *Municipal Affairs Act*;

R.S.O. 1980,
c. 303

(b) solicit funds for a provincial, federal or municipal party or candidate; or

(c) associate his position in the Office of the Auditor with any political activity.

(2) Contravention of any of the provisions of subsection (1) may be considered as cause for dismissal. 1977, c. 61, s. 25.

Cause for
dismissal

Conduct
and
discipline

26.—(1) The Auditor may make orders and rules for the conduct of the internal business of the Office of the Auditor and, after a hearing, may suspend, demote or dismiss any employee of the Office of the Auditor for cause.

Hearing
R.S.O. 1980,
c. 418

(2) The provisions of the *Public Service Act* and the regulation thereunder that apply in relation to suspension from employment pending an investigation and in relation to a hearing by a deputy minister or his delegate as to cause for dismissal, other than as to notice to the Civil Service Commission, apply with necessary modifications where the Auditor is of the opinion that there may exist cause for the suspension without pay, demotion or dismissal of an employee of the Office of the Auditor, and, for the purpose, the Auditor shall be deemed to be a deputy minister.

Appeals

(3) A decision of the Auditor to demote, suspend or dismiss an employee may be appealed by the employee, within fourteen days after the decision has been communicated to him, to the Public Service Grievance Board established under the *Public Service Act*.

Grievance
Board
authorized
to hear
appeals

(4) The Public Service Grievance Board may hear and dispose of an appeal under this section and the provisions of the regulation under the *Public Service Act* that apply in relation to a grievance for dismissal apply with necessary modifications to an appeal under this section, and, for the purpose, the Auditor shall be deemed to be a deputy minister and the decision of the Public Service Grievance Board is final and the Public Service Grievance Board shall report its decision and reasons in writing to the Auditor and to the appellant. 1977, c. 61, s. 26.

Proceedings
privileged

27.—(1) No proceedings lie against the Auditor, the Assistant Auditor, any person employed in the Office of the Auditor or any person appointed to assist the Auditor for a limited period of time or in respect of a particular matter, for anything he may do or report or say in the course of the exercise or the intended exercise of functions under this Act, unless it is shown that he acted in bad faith.

Information
confidential

(2) The Auditor, the Assistant Auditor and each person employed in the Office of the Auditor or appointed to assist the Auditor for a limited period of time or in respect of a particular matter shall preserve secrecy with respect to all matters that come to his knowledge in the course of his employment or duties under this Act and shall not communicate any such matters to any person, except as may be required in connection with the administration of this Act or any proceedings under this Act or under the *Criminal Code* (Canada). 1977, c. 61, s. 27.

R.S.C. 1970,
c. C-34

28. A person or persons, not employed by the Crown or the Office of the Assembly, licensed under the *Public Accountancy Act* and appointed by the Board, shall examine the accounts relating to the disbursements of public money on behalf of the Office of the Auditor and shall report thereon to the Board and the chairman of the Board shall cause the report to be laid before the Assembly if it is in session or, if not, at the next ensuing session. 1977, c. 61, s. 28.

Examination
of accounts
of Office of
the Auditor
R.S.O. 1980,
c. 405

29.—(1) The Auditor shall present annually to the Board estimates of the sums of money that will be required for the purposes of this Act.

Estimates

(2) The Board shall review and may alter as it considers proper the estimates presented by the Auditor, and the chairman of the Board shall cause the estimates as altered by the Board to be laid before the Assembly and the Assembly shall refer the estimates laid before it to a committee of the Assembly for review.

Review
by Board

(3) Notice of meetings of the Board to review or alter the estimates presented by the Auditor shall be given to the chairman and the vice-chairman of the standing Public Accounts Committee of the Assembly and the chairman and the vice-chairman may attend at the review of the estimates by the Board.

Notice

(4) The moneys required for the purposes of this Act, other than under sections 5 and 23, shall be paid out of the moneys appropriated therefor by the Legislature. 1977, c. 61, s. 29.

Moneys

CHAPTER 36

Bail Act

1. In cases in which a person has been committed for trial and is admitted to bail, the Crown attorney shall, and, in any other case in which a person is admitted to bail, the Crown attorney may, deliver or transmit a certificate of lien (Form 1) to the sheriff of the county in which the land mentioned therein is situate. R.S.O. 1970, c. 37, s. 1.

Crown
attorney
to deliver
or transmit
certificate
of lien

2. Upon the receipt of a certificate of lien, the sheriff shall, without fee, endorse thereon the day of the year, the month, the hour and the minute of its receipt and shall enter in an alphabetically-arranged index book kept for the purpose the name of the surety shown on the certificate of lien. R.S.O. 1970, c. 37, s. 2.

Endorse-
ment and
index book

3.—(1) The sheriff forthwith upon the receipt of a certificate of lien affecting land under the land titles system shall deliver or transmit to the land registrar a copy of the certificate of lien without his endorsement.

Sheriff to
deliver or
transmit
copy to
land titles
office

(2) Upon the receipt of a copy of a certificate of lien, the land registrar shall, without fee, endorse thereon the day of the year, the month, the hour and the minute of its receipt and shall enter in an alphabetically-arranged index book kept for the purpose the name of the surety shown on the certificate of lien. R.S.O. 1970, c. 37, s. 3.

Entry in
index book

4. Where the land mentioned in the certificate of lien is under the registry system, the Crown, as soon as the entry mentioned in section 2 is made, has a lien against the surety's property mentioned in the certificate of lien for an amount equal to the amount for which he offered himself as a surety as shown in the certificate of lien. R.S.O. 1970, c. 37, s. 4.

Where land
under
registry
system

5. Where the land mentioned in the certificate of lien is under the land titles system, the Crown, as soon as the entry mentioned in subsection 3 (2) is made, has a lien against the surety's property mentioned in the certificate of lien for an amount equal to the amount for which he offered himself as a surety as shown in the certificate of lien. R.S.O. 1970, c. 37, s. 5.

Where land
under land
titles
system

Certificate
re execution
against
lands

6. Where a certificate respecting executions against lands is required from a sheriff or land registrar, he shall, without additional fee, include in the execution certificate a statement as to whether there is a name shown on the index book mentioned in section 2 or subsection 3 (2), as the case may be, that is the same as the name shown on the certificate. R.S.O. 1970, c. 37, s. 6.

Crown
attorney
to deliver
or transmit
copy of
certificate
of discharge

7. As soon as a surety is discharged, the lien is discharged, and the Crown attorney shall deliver or transmit a certificate of discharge (Form 2) to the sheriff to whom the certificate of lien was delivered or transmitted. R.S.O. 1970, c. 37, s. 7.

Disposal of
certificate
of lien in
sheriff's
office

8. Upon the receipt of a certificate of discharge, the sheriff shall attach the certificate of discharge to the proper certificate of lien and strike the name of the surety from the index book kept pursuant to section 2. R.S.O. 1970, c. 37, s. 8.

Sheriff to
deliver or
transmit
copy of
certificate
of discharge
to land
registrar

9.—(1) Where the land mentioned in a certificate of discharge is under the land titles system, the sheriff forthwith upon the receipt of the certificate of discharge shall deliver or transmit to the land registrar a copy of the certificate of discharge.

Disposal of
certificate
of lien in
land titles
office

(2) Upon the receipt of a copy of a certificate of discharge from the sheriff, the land registrar shall attach the copy of the certificate of discharge to the proper certificate of lien and strike the name of the surety from the index book kept pursuant to subsection 3 (2). R.S.O. 1970, c. 37, s. 9.

FORM 1

(Section 1)

CERTIFICATE OF LIEN

I, _____, Crown attorney for the _____
_____ of _____, hereby certify
that _____ of the _____
of _____, is a surety for bail in the
sum of \$ _____ for the appearance of _____
The surety has real property as follows:

Street address _____
Lot and plan number _____

(or if in land titles)

Parcel number _____

Dated at _____ this _____ day of _____,
19....

Crown Attorney
for the County of _____

R.S.O. 1970, c. 37, Form 1.

FORM 2

(Section 7)

CERTIFICATE OF DISCHARGE

The certificate of lien, dated the _____ day of _____
19...., wherein _____ was named
surety for the appearance of _____ in the amount
of \$ _____, is discharged.

Dated at _____ this _____ day of _____,
19....

Crown Attorney
for the County of _____

R.S.O. 1970, c. 37, Form 2.

CHAPTER 37

Bailiffs Act

1. In this Act,

Interpre-
tation

- (a) "bailiff" means a person who acts, assists any person to act or holds himself out as being available to act for or on behalf of any other person in the repossession or seizure of chattels or in any eviction;
- (b) "business premises" does not include a dwelling;
- (c) "county" includes united counties and a provisional judicial district;
- (d) "county court" includes a district court;
- (e) "dwelling" means any premises or any part thereof occupied as living accommodation;
- (f) "Minister" means the Minister of Consumer and Commercial Relations;
- (g) "Registrar" means the Registrar of Collection Agencies under the *Collection Agencies Act*; R.S.O. 1980, c. 73
- (h) "regulations" means the regulations made under this Act;
- (i) "Treasurer" means the Treasurer of Ontario and Minister of Economics;
- (j) "Tribunal" means The Commercial Registration Appeal Tribunal under the *Ministry of Consumer and Commercial Relations Act*. R.S.O. 1970, c. 38, s. 1; 1971, c. 50, s. 10 (1-3); 1972, c. 1, ss. 23 (5), 25; 1972, c. 3, s. 17 (1). R.S.O. 1980, c. 274

2. This Act does not apply to a person while acting as a ^{Application} bailiff under a small claims court process or on behalf of a sheriff. R.S.O. 1970, c. 38, s. 2.

Appointment
R.S.O. 1980,
c. 706

3.—(1) No person, other than a person appointed as a bailiff under the *Small Claims Courts Act* or a sheriff's bailiff, shall act as a bailiff unless he has been appointed by the Lieutenant Governor on the recommendation of the Minister.

Idem

(2) An appointment shall designate the county for which the bailiff is appointed. R.S.O. 1970, c. 38, s. 3.

Consent of
county judge
for bailiff
to act

4. A bailiff may act as a bailiff in a county other than the county for which he is appointed if he first obtains the consent of a judge of the county court of the county in which he proposes to act. R.S.O. 1970, c. 38, s. 4.

Costs out-
side county

R.S.O. 1980,
c. 98

5.—(1) The costs of a bailiff for travelling or accommodation outside the county for which he is appointed shall not be charged as recoverable costs in a seizure, repossession or eviction unless the costs are taxed under the *Costs of Distress Act* and the clerk of the county court is satisfied that it was not practicable for the seizure, repossession or eviction to be made by a bailiff appointed for the county in which the repossession, seizure or eviction was made.

Idem

(2) For the purpose of subsection (1), section 6 of the *Costs of Distress Act* applies to costs in an eviction as if such costs were costs in a seizure or repossession. R.S.O. 1970, c. 38, s. 5.

Application
for appoint-
ment

6. An application for appointment as a bailiff shall be made to the clerk of the peace in the county in which the applicant intends to carry on business as a bailiff and shall state,

- (a) the name and residence of the applicant;
- (b) the place where the applicant intends to carry on business;
- (c) the qualifications of the applicant to act as a bailiff;
- (d) any circumstance indicating that a bailiff is needed for the public convenience in the place where the applicant intends to carry on business as a bailiff; and
- (e) whether the applicant has previously acted as a bailiff and, if so, where. R.S.O. 1970, c. 38, s. 6.

Examination

7. Upon receiving an application, the clerk of the peace shall examine the applicant and shall forward the results of the examination, together with the security required by

section 14 and his recommendations, to the Registrar. R.S.O. 1970, c. 38, s. 7; 1971, c. 50, s. 10 (4).

8. The Minister may recommend the appointment of the applicant as a bailiff if, Recommendation by Minister

- (a) the applicant has complied with this Act and the regulations;
- (b) the applicant is qualified to act as a bailiff; and
- (c) a bailiff is needed for the public convenience in the county in which the applicant intends to carry on business as a bailiff. R.S.O. 1970, c. 38, s. 8.

9. Subject to section 10, the Registrar may revoke an appointment where the bailiff, Revocation of appointment

- (a) has not complied with this Act or the regulations or the *Costs of Distress Act*; or R.S.O. 1980, c. 98
- (b) is, in the opinion of the Registrar, incompetent or without capacity to act responsibly as a bailiff. 1971, c. 50, s. 10 (5), *part.*

10.—(1) Where the Registrar proposes to revoke an appointment, he shall serve notice of his proposal, together with written reasons therefor, on the bailiff. Notice of proposal to revoke

(2) A notice under subsection (1) shall inform the bailiff that he is entitled to a hearing by the Tribunal if he mails or delivers, within fifteen days after the notice under subsection (1) is served on him, notice in writing requiring a hearing to the Registrar and the Tribunal, and he may so require such a hearing. Notice requiring hearing

(3) Where a bailiff does not require a hearing by the Tribunal in accordance with subsection (2), the Registrar may carry out the proposal stated in his notice under subsection (1). Powers of Registrar where no hearing

(4) Where a bailiff requires a hearing by the Tribunal in accordance with subsection (2), the Tribunal shall appoint a time for and hold the hearing and, on the application of the Registrar at the hearing, may by order direct the Registrar to carry out his proposal or refrain from carrying out his proposal and to take such action as the Tribunal considers the Registrar ought to take. Powers of Tribunal where hearing

Parties

(5) The Registrar, the bailiff who has required the hearing and such other persons as the Tribunal may specify are parties to proceedings before the Tribunal under this section.

Service
of notice

(6) The Registrar may serve notice under subsection (1) on a bailiff personally or by registered mail addressed to his address last known to the Registrar and, where service is made by registered mail, the service shall be deemed to be made on the third day after the day of mailing unless the bailiff on whom service is being made establishes that he did not, acting in good faith, through absence, accident, illness or other cause beyond his control receive the notice or order until a later date. 1971, c. 50, s. 10 (5), *part*.

Order
effective
not-
withstanding
appeal
R.S.O. 1980,
c. 274

11. Notwithstanding that a bailiff appeals from an order of the Tribunal under section 11 of the *Ministry of Consumer and Commercial Relations Act*, the order takes effect immediately but the Tribunal may grant a stay until disposition of the appeal. 1971, c. 50, s. 10 (5), *part*; 1972, c. 1, s. 23 (5).

Complaints

12.—(1) Any person who has a complaint against a bailiff may make his complaint to the clerk of the peace in the county for which the bailiff is appointed. R.S.O. 1970, c. 38, s. 10 (1).

Idem

(2) The clerk of the peace shall investigate the complaint and forward the complaint, together with the results of his investigation, to the Registrar. R.S.O. 1970, c. 38, s. 10 (2); 1971, c. 50, s. 10 (6).

Not to
engage in
business of
collection
agency

13.—(1) No person shall engage in business as a bailiff while an employee of or engaging in the business of a collection agency. R.S.O. 1970, c. 38, s. 11 (1).

Change of
business
address

(2) A person authorized to engage in the business of a bailiff shall notify the Registrar of any change in the address of the place of business. R.S.O. 1970, c. 38, s. 11 (2); 1971, c. 50, s. 10 (7).

Books of
account

(3) Every bailiff shall keep and maintain books of account in accordance with accepted principles of double-entry book-keeping, and shall obtain an audit of his books of account and financial transactions annually by a public accountant licensed under the *Public Accountancy Act*. R.S.O. 1970, c. 38, s. 11 (3).

R.S.O. 1980,
c. 405

Financial
statement

(4) Every bailiff shall furnish the Registrar with a financial statement in such form and at such times as the Registrar requires. R.S.O. 1970, c. 38, s. 11 (4); 1971, c. 50, s. 10 (8).

(5) The Registrar may appoint in writing a person to ^{Investigation} investigate the business of a bailiff as a bailiff and any such person, upon the production of evidence of his appointment under this subsection, may enter between 9 o'clock in the forenoon and 5 o'clock in the afternoon the business premises of the bailiff and examine books, papers, documents and things relating to his business as a bailiff.

(6) No person shall obstruct a person appointed to make ^{Obstruction of investigator} an investigation under subsection (5) or withhold from him or conceal or destroy any books, papers, documents or things relevant to the subject-matter of the investigation. 1971, c. 50, s. 10 (9).

(7) Every bailiff shall maintain an account designated as ^{Trust accounts} a trust account in a chartered bank, the Province of Ontario Savings Office, a credit union, as defined in the *Credit Unions and Caisses Populaires Act* or a registered trust company ^{R.S.O. 1980, c. 102} in which he shall deposit all moneys received by him on behalf of other persons, less any lawful fees or charges, and such moneys shall be kept and accounted for separately from any other moneys. R.S.O. 1970, c. 38, s. 11 (6); 1980, c. 6, s. 2.

(8) Before the fifteenth day of each month, every bailiff ^{Accounting for and payment of trust moneys} shall account to the persons entitled thereto for any moneys received in trust during the previous month and shall pay the moneys, less lawful fees and charges.

(9) Within six months after a bailiff receives moneys ^{Disposition of unclaimed trust moneys} held under subsection (7), the bailiff shall make every effort to locate the person entitled to the moneys, and shall pay any moneys thereafter remaining unclaimed to the Treasurer who may pay the moneys to any person who satisfies the Treasurer that he is entitled thereto. R.S.O. 1970, c. 38, s. 11 (7, 8).

14.—(1) No person shall act as a bailiff unless he is bonded in ^{Bonding} the prescribed amount and form.

(2) The bond shall be, ^{Idem}

(a) a personal bond accompanied by collateral security;

(b) a bond of a guarantee company approved under the *Guarantee Companies Securities Act*; or ^{R.S.O. 1980, c. 192}

(c) a bond of a guarantor, other than a guarantee company, accompanied by collateral security.

(3) The collateral security shall be direct or guaranteed ^{Collateral security} securities of the Government of Canada or of the Government of Ontario. R.S.O. 1970, c. 38, s. 12.

Forfeiture
of bond

15.—(1) Where an appointment has been revoked under section 9 or 10 and,

R.S.C. 1970,
c. C-34

(a) the bailiff has been convicted of an offence involving fraud, theft, assault, libel or breaking and entering under the *Criminal Code* (Canada) while acting as a bailiff, or of a conspiracy or an attempt to commit such an offence, and the conviction has become final; or

(b) the bailiff has had a judgment for the recovery of money paid for services not performed or based on a finding of fraud, conversion, assault, libel or trespass committed while acting as a bailiff entered against him, and the judgment has become final,

the Minister may direct that the bond of the bailiff be forfeited. R.S.O. 1970, c. 38, s. 13 (1); 1971, c. 50, s. 10 (10).

Idem

(2) Upon a direction being made under subsection (1), the bond is forfeited and the amount of the bond becomes due and owing as a debt due to the Crown in right of Ontario. R.S.O. 1970, c. 38, s. 13 (2).

Sale of
collateral
security

16.—(1) Where a bond secured by the deposit of collateral security is forfeited, the Treasurer may sell the collateral security at the current market price.

Payment of
proceeds

(2) The Treasurer may,

(a) assign any bond forfeited under section 15 and transfer the collateral security, if any;

(b) pay over any money recovered under the bond; and

(c) pay over any money realized from the sale of the collateral security,

to any judgment creditor of the bailiff bonded for claims arising out of the circumstance under which the bond was forfeited, or to the Accountant of the Supreme Court in trust for any person who becomes such judgment creditor.

Idem

(3) Where a bond has been forfeited or cancelled and the Treasurer has not received notice in writing of any claim against the proceeds of the bond or such part as remains in the hands of the Treasurer within two years of

the forfeiture or cancellation, the Treasurer may pay the proceeds or part remaining to any person who made a payment under the bond. R.S.O. 1970, c. 38, s. 14.

17. Every person employed in the administration of this Act, including any person making an examination under section 13, shall preserve secrecy in respect of all matters that come to his knowledge in the course of his duties, employment or examination and shall not communicate any such matters to any other person except, ^{Matters confidential}

- (a) as may be required in connection with the administration of this Act and the regulations or any proceedings under this Act or the regulations;
- (b) to his counsel; or
- (c) with the consent of the person to whom the information relates. 1971, c. 50, s. 10 (11).

18.—(1) Every person who contravenes any provision of this Act is guilty of an offence and on conviction is liable to a fine of not more than \$1,000. ^{Offence}

(2) No proceeding under subsection (1) shall be commenced more than one year after the facts upon which the proceeding is based first came to the knowledge of the Director of the Consumer Protection Division of the Ministry of Consumer and Commercial Relations. R.S.O. 1970, c. 38, s. 15. ^{Limitation}

19. The Lieutenant Governor in Council may make regulations, ^{Regulations}

- (a) prescribing forms and providing for their use;
- (b) prescribing fees for applications;
- (c) prescribing the amount of bonds and collateral security to be furnished under this Act. R.S.O. 1970, c. 38, s. 16; 1971, c. 50, s. 10 (12).

CHAPTER 38

Barristers Act

1. A person who is or has been Minister of Justice and Attorney General of Canada or Solicitor General of Canada is entitled to be called to the bar of Ontario without complying with the *Law Society Act* or any of the regulations or rules of the Society as to admission, examinations, payment of fees or otherwise, and is thereupon entitled to practise at the bar of Her Majesty's courts in Ontario. R.S.O. 1970, c. 39, s. 1.

Call of
Minister of
Justice
and Attorney
General or
Solicitor
General
R.S.O. 1980,
c. 233

2.—(1) The Lieutenant Governor, by letters patent under the Great Seal, may appoint from the members of the bar of Ontario such persons as he considers proper to be, during pleasure, provincial officers under the name of "Her Majesty's counsel learned in the law" for Ontario.

Queen's
Counsel

(2) The disbarment of a barrister who holds an appointment as a Queen's counsel for Ontario has the effect of revoking such appointment. R.S.O. 1970, c. 39, s. 2.

Disbarment
revokes Q.C.
appointment

3.—(1) The following members of the bar of Ontario have precedence in the courts of Ontario in the following order:

Order of
precedence
at the bar

1. The Minister of Justice and Attorney General of Canada.
2. The Attorney General for Ontario.
3. The members of the bar who have held the office of Minister of Justice and Attorney General of Canada or Attorney General for Ontario or Minister of Justice and Attorney General for Ontario, according to seniority of appointment. R.S.O. 1970, c. 39, s. 3 (1); 1972, c. 1, s. 9 (7).

(2) The Lieutenant Governor, by letters patent under the Great Seal, may grant to any member of the bar a patent of precedence in the courts of Ontario.

Patents of
precedence

(3) Queen's counsel for Ontario have precedence in the courts according to seniority of appointment unless otherwise provided in the letters patent.

Precedence
of Queen's
Counsel

Precedence
of other
members of
the bar

(4) The remaining members of the bar, as among themselves, have precedence in the courts in the order of their call to the bar.

Crown
Counsel

(5) Nothing in this Act affects or alters any rights of precedence that appertain to any member of the bar when acting as counsel for Her Majesty, or for any attorney general of Her Majesty, in any matter depending in the name of Her Majesty or of the attorney general before the courts, but such right and precedence remain as if this Act had not been passed. R.S.O. 1970, c. 39, s. 3 (2-5).

CHAPTER 39

Beach Protection Act**1.** In this Act,Interpre-
tation

- (a) “licence” means a licence issued under this Act;
- (b) “Minister” means the Minister of Natural Resources;
- (c) “regulations” means the regulations made under this Act;
- (d) “sand” includes earth, gravel and stone. R.S.O. 1970, c. 40, s. 1; 1972, c. 4, s. 12.

2.—(1) The Minister may issue licences for the taking of sand from the bed, bank, beach, shore or waters of any lake, river or stream or from any bar or flat in any lake, river or stream or adjoining any channel or entrance to any lake, river or stream in accordance with the regulations. R.S.O. 1970, c. 40, s. 2 (1); 1971, c. 50, s. 11 (1).

Issue and
revocation
of licence

(2) Each licence is effective only in the geographical area defined therein, and shall contain such particular terms and conditions as to its operation as the Minister may direct. R.S.O. 1970, c. 40, s. 2 (2).

Operation
of licence

3.—(1) The Minister may refuse to issue a licence to take sand from a bed, bank, beach, shore, waters, bar or flat mentioned in subsection 2 (1) that is the property of the Crown on any ground upon which he considers it to be contrary to the public interest to issue the licence.

Refusal
to issue
licence

(2) Subject to section 11, where a bed, bank, beach, shore, waters, bar or flat mentioned in subsection 2 (1) is owned by a person other than the Crown, the owner or a person who has acquired from the owner the right to remove sand therefrom is entitled to be issued a licence by the Minister unless the Minister is of opinion that,

Idem

- (a) the taking or removal of sand therefrom is contrary to the public interest on the ground that it will,
 - (i) unduly impair or interfere with the natural state or use of waters or the value or use of property,

(ii) likely cause undue erosion of or accretion to lands, or

(iii) likely create a threat to roads, rights-of-way, structures or installations or to health or safety,

in the place from which the sand is to be taken or the area adjacent or near to such place; or

(b) the equipment that the applicant proposes to use for removal of the sand is not proper or suitable for such purpose.

Suspension,
etc., of
licence

(3) The Minister may, in accordance with section 4, refuse to renew or may suspend or revoke a licence,

(a) if the licensee has contravened or failed to comply with the terms and conditions of the licence; or

(b) on any grounds upon which he might refuse to issue the licence if application was being made for it in the first instance. 1971, c. 50, s. 11 (2), *part*.

Reference
to Mining
and Lands
Com-
missioner

4.—(1) Subject to subsection (7), before refusing to issue a licence under subsection 3 (2) or to renew any licence or before suspending or revoking any licence, the Minister shall refer the matter to the Mining and Lands Commissioner for a hearing and report.

Hearing

(2) Pursuant to a reference by the Minister under this section, the Mining and Lands Commissioner shall hold a hearing as to whether the licence to which the hearing relates should be issued or renewed or should be suspended or revoked, as the case may be, and the applicant or licensee and such other person as the Commissioner specifies shall be parties to the hearing.

Application of
R.S.O. 1980,
c. 484,
ss. 6-16, 21-23

(3) Sections 6 to 16 and 21 to 23 of the *Statutory Powers Procedure Act* apply with respect to a hearing under this section.

Assistance
for Com-
missioner

(4) The Mining and Lands Commissioner may obtain the assistance of engineers, surveyors or other scientific persons who may under his order view and examine the property in question, and in making his report he may give such weight to their opinion or report as he considers proper.

Report
of Com-
missioner

(5) At the conclusion of a hearing under this section, the Mining and Lands Commissioner shall make a report to the Minister setting out his findings of fact and any information or knowledge used by him in reaching his recommendations,

any conclusions of law he has arrived at relevant to his recommendations and his recommendations as to the issue, renewal, suspension or revocation of the licence to which the hearing relates, as the case may be, and shall send a copy of his report to the applicant or licensee to whom it relates.

(6) After considering the report of the Mining and Lands Commissioner under this section, the Minister may thereupon refuse to issue or to renew or may suspend or revoke the licence to which the report relates and shall give notice of his decision to the applicant or licensee specifying the reasons therefor. Decision of Minister

(7) Notwithstanding subsection (1), the Minister, by notice to a licensee and without referring the matter to the Mining and Lands Commissioner for a hearing, may provisionally refuse renewal of, or suspend the licensee's licence where the continuation of operations under the licence is, in the Minister's opinion, an immediate threat to the public interest and the Minister so states in such notice, giving his reasons therefor, and the Minister shall forthwith thereafter refer the matter to the Mining and Lands Commissioner and the provisions of subsections (1) to (6) shall apply. 1971, c. 50, s. 11 (2), *part*; 1973, c. 105, s. 4. Provisional suspension, etc.

5.—(1) No person, unless he is the holder of a licence, shall take or carry away in any boat, vessel, craft, cart, truck or other conveyance, or otherwise transport by land or water or remove by drag-line or other mechanical device, any sand from a bed, bank, beach, shore, waters, bar or flat mentioned in subsection 2 (1) whether or not such bed, bank, beach, shore, waters, bar or flat is owned by such person. Prohibition against taking sand

- (2) Subsection (1) does not apply to the removal of sand, Where licence not required
- (a) by a municipality for municipal use; or
 - (b) by a *bona fide* resident of Ontario for his personal use and not for resale or for use for commercial purposes, if the removal is with the written consent of an official designated by the council of the local municipality in which the sand is situate. R.S.O. 1970, c. 40, s. 3.

6. Subject to subsection 5 (2), no person shall go upon any bed, bank, beach, shore, waters, bar or flat mentioned in subsection 2 (1) for the purpose of removing or assisting to remove any sand therefrom except under the authority of a licence. R.S.O. 1970, c. 40, s. 4. Being present to remove sand

7. No person shall have on board his vessel or on a vessel in his possession or control any sand taken contrary to this Act. R.S.O. 1970, c. 40, s. 5. Having sand unlawfully taken on vessel

Issue of
search
warrant

8.—(1) Where a person makes oath before a justice of the peace that he has reason to believe and does believe that sand, in contravention of section 5, 6 or 7, is on board any vessel, or at any place, the justice of the peace shall issue a search warrant directed to a sheriff, police officer, constable or bailiff, who shall forthwith proceed to search the vessel or place and, if any sand is found thereon or thereat, he shall seize it and the vessel, if any, in which it is contained, and shall keep them secure until final action as hereinafter provided is had thereon.

Prosecution

(2) The owner, master or person in possession of the vessel, or person in possession of sand, shall, without further information laid, be summoned forthwith by the justice who issued the warrant to appear before a provincial offences court, and if such owner, master or person in possession fails to appear, or if it is shown to the satisfaction of the court that a contravention has taken place, the court may convict the owner, master or person in possession. R.S.O. 1970, c. 40, s. 6.

Removal of
sand from
bed of
certain
streams
prohibited

9.—(1) No person shall remove any sand from the bed of any river, stream or creek running between two municipalities without the consent of the councils of such municipalities, and in no case shall any sand be removed from the bed of any river, stream or creek so as to injure or endanger the safety of any bridge, drainage pipe, watermain or other structure erected or laid by a municipal corporation.

Offence

(2) Every person who contravenes any provision of subsection (1) is guilty of an offence and on conviction is liable to a fine of not less than \$10 and not more than \$25. R.S.O. 1970, c. 40, s. 7.

Removal of
sand from
street or
road
prohibited

10.—(1) No person shall remove any sand from any street or road or from the extension of any street or road into any river or lake without the consent of the council of the municipality in which it is situate.

Offence

(2) Every person who contravenes any provision of subsection (1) is guilty of an offence and on conviction is liable to a fine of not more than \$10 for every load removed. R.S.O. 1970, c. 40, s. 8.

Removal
of sand
from Erie,
Ontario,
Huron

11.—(1) Notwithstanding any other provision of this or any other Act or in any regulation or order made under this or any other Act, the Lieutenant Governor in Council may make regulations prohibiting or restricting, subject to the terms and conditions contained therein, the taking, removing and carrying away by cart, truck, vessel or any other vehicle or water craft of any sand

from any bed, beach, shore or waters of or adjacent to any part of the shores of Lake Erie, Lake Ontario or Lake Huron, or from any land covered by the waters of any of such lakes adjacent to such shore, or from any sandbar or flat therein or adjoining any channel or entrance thereto as described in the regulations.

(2) Such prohibition or restriction extends to the owner, tenant or occupant of any such bed, beach, shore, sandbar or flat and to any person claiming under the authority of any municipal corporation or of any order of the Ontario Municipal Board and to every other individual and corporation.

Extent of prohibition or restriction

(3) Every person who contravenes the prohibition or restriction contained in any such regulation is guilty of an offence and on conviction is liable to a fine of not less than \$10 and not more than \$100. R.S.O. 1970, c. 40, s. 9.

Offence

12. Every person who contravenes any of the provisions of this Act or the regulations is guilty of an offence and on conviction, if no other penalty is provided, is liable to a fine of not less than \$10 and not more than \$1,000, but no prosecution shall be commenced except with the consent in writing of the Attorney General. R.S.O. 1970, c. 40, s. 10; 1972, c. 1, s. 9 (7).

General penalty; consent to prosecute

13. Except as otherwise provided in this Act, the *Provincial Offences Act* applies to all proceedings taken under this Act. R.S.O. 1970, c. 40, s. 11.

Application of R.S.O. 1980, c. 400

14. In addition to the method of service prescribed by the *Provincial Offences Act*, any summons or other proceeding may, where it is directed to a person on board a vessel, be served by leaving it, or a copy thereof, with the person who is or appears to be in charge or command of the vessel. R.S.O. 1970, c. 40, s. 12.

Service of proceedings

15. Where it is proved in any prosecution under this Act that the accused has done or committed any act or thing for which a licence or the consent of any person or persons is required under this Act, the burden of proving that the required licence was issued or consent was given shall rest upon the accused. 1971, c. 50, s. 11 (3).

Burden of proof

16.—(1) A person to whom a licence to take sand from property of the Crown in right of Ontario is issued may be required to pay to the Crown, in addition to his licence fee, a fixed sum for every cubic metre of sand removed under the authority of the licence. 1971, c. 50, s. 11 (4); 1978, c. 87, s. 22 (1).

Royalties

Amount of
royalty

(2) The amount to be charged per cubic metre shall be fixed by the Minister according to the location, type, availability and accessibility of the sand. R.S.O. 1970, c. 40, s. 14 (2); 1978, c. 87, s. 22 (2).

Security

(3) The Minister may require a person to whom such a licence is issued and by whom such sums are payable to the Crown to give security by bond satisfactory to the Minister for the payment of such sums. R.S.O. 1970, c. 40, s. 14 (3).

Sale of
vessel, etc.,
for payment
of penalty
R.S.O. 1980,
c. 400

17.—(1) In addition to the remedies provided by the *Provincial Offences Act* for the recovery of penalties, any penalty imposed for a contravention of this Act, if not paid in accordance with the conviction, may be levied by the sale of any vessel, conveyance, drag-line or other mechanical device involved in the commission of the offence under the warrant of the court that imposed the penalty.

Payment of
balance to
owner

(2) Upon return being made of the sale, after satisfying the fine and the costs of the sale, the surplus, if any, shall be paid to the owner of the vessel. R.S.O. 1970, c. 40, s. 15.

Regulations

18. The Lieutenant Governor in Council may make regulations,

- (a) providing for the issue and renewal of licences and prescribing the terms and conditions thereof and the fees payable therefor;
- (b) prescribing the form and contents of security bonds;
- (c) prescribing forms and providing for their use. R.S.O. 1970, c. 40, s. 16; 1971, c. 50, s. 11 (5).

CHAPTER 40

Beds of Navigable Waters Act

1. Where land that borders on a navigable body of water or stream, or on which the whole or a part of a navigable body of water or stream is situate, or through which a navigable body of water or stream flows, has been heretofore or is hereafter granted by the Crown, it shall be deemed, in the absence of an express grant of it, that the bed of such body of water was not intended to pass and did not pass to the grantee. R.S.O. 1970, c. 41, s. 1.

Grant to be deemed to exclude the bed

2.. Section 1 does not affect the rights, if any, of a grantee from the Crown or of a person claiming under him, where such rights were, previous to the 24th day of March, 1911, determined by a court of competent jurisdiction in accordance with the rules of the English Common Law, or of a grantee from the Crown, or a person claiming under him who establishes to the satisfaction of the Lieutenant Governor that he or any person under whom he claims has, previous to the 24th day of March, 1911, developed a water power or powers under the *bona fide* belief that he had the legal right to do so, provided that he may be required by the Lieutenant Governor in Council to develop such power or powers to the fullest possible extent and provided that the price charged for power derived from such water power or powers may from time to time be fixed by the Lieutenant Governor in Council, and the Lieutenant Governor in Council may direct that letters patent granting such rights be issued to such grantee or person claiming under him under and subject to such conditions and provisions as are considered proper for insuring the full development of such water power or powers and the regulation of the price to be charged for power derived from them. R.S.O. 1970, c. 41, s. 2.

Saving as to certain cases

3. This Act does not apply to the bed of the river in Lot 8 in the 6th Concession of the Township of Merritt in the District of Sudbury. R.S.O. 1970, c. 41, s. 3.

Act not to apply to a certain locality

4. Notwithstanding any other provision of this Act, the case of any person setting up on special grounds a claim to receive from the Crown a grant or lease of any part of the bed of a navigable body of water or stream shall be dealt with by the Lieutenant Governor in Council as he considers fair and just. R.S.O. 1970, c. 41, s. 4.

Lieutenant Governor may deal with special cases

CHAPTER 41

Beef Cattle Marketing Act

1. In this Act,

Interpre-
tation

- (a) “association” means such association under the *Agricultural Associations Act* as is designated in the regulations; R.S.O. 1980,
c. 8
- (b) “Board” means the Agricultural Licensing and Registration Review Board under the *Ministry of Agriculture and Food Act*; R.S.O. 1980,
c. 270
- (c) “carcass” means a carcass of a head of cattle;
- (d) “cattle” includes bulls, cows, heifers, steers and calves, but does not include cattle that are not sold for the production of beef;
- (e) “Commissioner” means the Live Stock Commissioner;
- (f) “inspector” means an inspector appointed for the purposes of this Act;
- (g) “licence” means a licence issued under this Act;
- (h) “Minister” means the Minister of Agriculture and Food;
- (i) “plant” means a premises where cattle are slaughtered;
- (j) “price reporter” means a price reporter appointed for the purposes of this Act;
- (k) “regulations” means the regulations made under this Act;
- (l) “slaughter” means slaughter for the purpose of processing meat into food. R.S.O. 1970, c. 42, s. 1; 1980,
c. 53, s. 1.

2. The purpose and intent of this Act is to provide for,

Purpose
of Act

- (a) the establishment and standardization of procedures affecting the sale of cattle or carcasses; and

- (b) the designation and financing of an association that has power to make recommendations in respect of such procedures and to expend moneys to,
- (i) stimulate, increase and improve the sale of cattle or carcasses,
 - (ii) disseminate information concerning the cattle industry, and
 - (iii) co-operate with any person or persons or any department of the Government of Canada or of the government of any province in the carrying out of its objects. R.S.O. 1970, c. 42, s. 2.

Licences

3.—(1) Except under the authority of a licence, no person shall sell cattle.

Idem

(2) Every person who sells cattle shall be deemed to be the holder of a licence.

Refund of
licence fees

(3) Every person who is the holder of a licence under this section may apply for a refund of any licence fees paid by him to an association.

Idem

(4) Every application for a refund shall be made in the manner prescribed in the regulations.

Idem

(5) Where an association receives an application for a refund, it shall refund the licence fees in the manner prescribed in the regulations and in any case not later than one year after receipt of the application therefor. R.S.O. 1970, c. 42, s. 3.

Recom-
mendations
by directors
of associa-
tion

4.—(1) Where the board of an association is of the opinion that a majority of the members of the association are in favour thereof, the board of directors may recommend to the Lieutenant Governor in Council the making, amending or revoking of regulations respecting any of the matters set forth in section 5.

Use of
licence
fees by
association

- (2) An association may use licence fees for the purposes of,
- (a) defraying the expenses of the association in the carrying out of its objects;
 - (b) stimulating, increasing and improving the sale of cattle or carcasses;
 - (c) disseminating information concerning the cattle industry; and

- (d) co-operating with any person or persons or any department of the Government of Canada or of the government of any province in the carrying out of its objects. R.S.O. 1970, c. 42, s. 4.

5.—(1) Notwithstanding section 4, the Lieutenant Governor in Council may make regulations, Regulations

- (a) designating an association for the purposes of this Act;
- (b) fixing the amount of licence fees up to but not exceeding two-tenths of 1 per cent of the sale price for each head of cattle;
- (c) requiring persons to pay licence fees owing by them to an association;
- (d) requiring any person who receives cattle from a seller thereof to deduct, from the moneys payable to the seller, any licence fee payable by the seller to an association and to forward such licence fees to the association;
- (e) providing for the recovery by the association of licence fees owing to the association by suit in a court of competent jurisdiction;
- (f) prescribing the manner in which applications for refund of licence fees shall be made and the manner in which refunds shall be made;
- (g) providing for the exemption from any or all of the regulations of any cattle or class of cattle or any person or class of persons;
- (h) providing for the inspecting, weighing and measuring of cattle and carcasses;
- (i) respecting the buying, selling, handling, weighing, measuring, shipping and transporting of cattle and carcasses;
- (j) prescribing the manner in which receipts, classifications, weights and purchase prices shall be recorded by persons engaged in the buying or selling of cattle and made available to the Minister;
- (k) prescribing the manner in which buyers, sellers, transporters and shippers of cattle or carcasses shall identify, for the purposes of inspecting, weighing and measuring, individual sellers' lots in a shipment;

- (l) prescribing the manner in which buyers shall make returns and prepare for presentation to the sellers the statements of accounts of purchase of cattle and carcasses;
- (m) respecting the facilities and equipment to be provided and maintained for the weighing and measuring of cattle and carcasses on premises in which cattle or carcasses are assembled, held, slaughtered, weighed or measured;
- (n) prescribing the basis on which the amount payable respecting a head of cattle or a carcass shall be calculated;
- (o) prescribing the time at which a person who purchases cattle shall weigh the cattle or the carcasses thereof;
- (p) prescribing the powers and duties of inspectors and price reporters;
- (q) providing for the issuing of inspection certificates by inspectors;
- (r) prescribing forms and providing for their use;
- (s) respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act. R.S.O. 1970, c. 42, s. 5 (1); 1974, c. 43, s. 1 (1); 1978, c. 87, s. 3; 1980, c. 53, s. 2 (1).

Scope of regulations

(2) Any regulation may be limited as to time or place, or to both.

Definitions

(3) Any word or expression used in a regulation may be defined in the regulation for the purposes of the regulation. R.S.O. 1970, c. 42, s. 5 (2, 3); 1980, c. 53, s. 2 (2).

Appointment of inspectors and price reporters

6. The Lieutenant Governor in Council may appoint inspectors and price reporters for the purposes of this Act and may fix their remuneration and allowance for expenses. R.S.O. 1970, c. 42, s. 6.

Powers of inspector

7.—(1) For the purpose of enforcing this Act and the regulations, an inspector may enter any premises used for the assembling, holding, slaughtering, storing, processing, grading, weighing, measuring, selling or offering for sale of any cattle or carcasses and inspect any cattle, carcasses, facilities or equipment found therein.

(2) For the purpose of enforcing this Act and the regulations, an inspector may require the production or furnishing of copies of or extracts from any books, shipping bills, bills of lading or other records relating to cattle or carcasses. ^{Production of documents}

(3) For the purpose of inspecting a head of cattle or a carcass, an inspector may detain it at the risk of the owner and, after detaining it, the inspector shall forthwith notify the owner or person who had possession of it of the detention. ^{Detention for purposes of inspection}

(4) Where an inspector detains a head of cattle or a carcass under subsection (3), he shall, as soon as may be practicable, inspect the head of cattle and shall forthwith thereafter, ^{Inspection after detention}

(a) release the head of cattle or carcass from detention;
or

(b) detain the head of cattle or carcass under section 8.

(5) No person shall hinder or obstruct an inspector or a price reporter in the course of his duties or furnish an inspector or a price reporter with false information or refuse to permit any cattle, carcasses, facilities or equipment to be inspected or refuse to furnish an inspector or price reporter with information. ^{Obstruction of inspector or price reporter}

(6) A person shall, when required by an inspector, produce copies of and extracts from any books, shipping bills, bills of lading and other records relating to cattle or carcasses. ^{Production of copies}
R.S.O. 1970, c. 42, s. 7.

8.—(1) Any cattle or carcasses, in respect of which an inspector believes on reasonable grounds an offence against this Act or the regulations has been committed, may be placed under detention at the risk and expense of the owner by the inspector, and the inspector shall forthwith thereafter notify the owner or the person who had possession of them of the detention in writing. ^{Detention of cattle and carcasses}

(2) A notice given by an inspector under subsection (1) shall contain the particulars in respect of which it is alleged the cattle or carcasses do not comply with this Act or the regulations. ^{Notice to contain particulars}

(3) Any cattle or carcasses detained under subsection (1) shall remain under detention until the owner of the cattle or carcasses complies with this Act and the regulations. ^{Period of detention}

(4) Where an inspector is satisfied that the owner of cattle or carcasses that have been detained complies with this Act ^{Release from detention}

and the regulations respecting the cattle or carcasses, the inspector shall forthwith release them from detention. R.S.O. 1970, c. 42, s. 8.

Certificate
of inspector
or price
reporter

9. The production by an inspector or a price reporter of a certificate of his appointment purporting to be signed by the Minister is admissible in evidence as *prima facie* proof of the facts stated in the certificate and of the authority of the inspector or price reporter to exercise the powers and perform the duties prescribed in this Act and the regulations. R.S.O. 1970, c. 42, s. 9.

Preparation
of list

10.—(1) Subject to section 11, the Commissioner shall prepare a list of plants that, in his opinion, comply with the provisions of this Act and the regulations that apply where cattle are sold for a price calculated on a carcass weight basis, and may amend or revise the list from time to time. 1980, c. 53, s. 3, *part*.

Application
for listing

(2) Where the operator of a plant wishes to have his plant included on the list referred to in subsection (1), he shall apply therefor to the Commissioner in writing.

List may be
inspected

(3) The Commissioner shall maintain a copy of the list referred to in subsection (1), as amended or revised, at his office at all times and shall permit inspection thereof by the public during normal business hours.

Furnishing
and
publishing
list

(4) The Commissioner may,

(a) send a copy of the list referred to in subsection (1) and any amendment or revision thereof to any person in Ontario who makes a request therefor; and

(b) publish the list referred to in subsection (1) and any amendment or revision thereof in such manner as he considers advisable.

Purchase
of cattle

(5) No operator of a plant that is not included on the list referred to in subsection (1) shall purchase cattle for slaughter at his plant for a price calculated on a carcass weight basis. 1980, c. 53, s. 3, *part*.

Hearing
required

11.—(1) A decision by the Commissioner not to include a plant on the list referred to in section 10 or to remove a plant from the list shall be made only after a hearing by the Commissioner.

Notice of
hearing

(2) Notice of a hearing by the Commissioner under subsection (1) shall afford to the operator of the plant a reasonable opportunity to show or achieve compliance before the hearing with the

provisions of this Act and the regulations that apply where cattle are sold for a price calculated on a carcass weight basis.

(3) The operator of a plant who is a party to the proceedings in which the Commissioner holds a hearing shall be afforded an opportunity to examine before the hearing any written or documentary evidence that will be produced or any report the contents of which will be given in evidence at the hearing. Examination of documentary evidence

(4) Notwithstanding subsections (1), (2) and (3), the Commissioner may remove a plant from the list referred to in section 10 without a hearing where, Removal of plant from list

(a) in the opinion of the Commissioner, it is necessary to do so for the immediate protection of the interests of producers; and

(b) the Commissioner, forthwith thereafter, serves upon the operator of the plant notice of a hearing to be held within fifteen days after the removal of the plant from the list. 1980, c. 53, s. 3, *part*.

12. Where, after a hearing, the Commissioner has not included a plant on or has removed a plant from the list referred to in section 10, he may at any time of his own motion or on the application of the operator of the plant vary or rescind his decision, but the Commissioner shall not vary or rescind his decision adversely to the interests of any person without holding a rehearing to which such person is a party and may make such decision after such rehearing as he considers proper under this Act. 1980, c. 53, s. 3, *part*. Commissioner may vary or rescind decision

13.—(1) Where the Commissioner refuses to include a plant on or removes a plant from the list referred to in section 10, the operator of the plant may, by written notice delivered to the Commissioner and filed with the Board within fifteen days after receipt of the decision of the Commissioner, appeal to the Board. Appeal to Board

(2) The Board may extend the time for the giving of notice under subsection (1), either before or after expiration of such time, where it is satisfied that there are *prima facie* grounds for appeal and that there are reasonable grounds for applying for the extension. Extension of time for appeal

(3) Where an operator appeals to the Board under this section, the Board shall hear the appeal by way of a hearing *de novo* to determine whether the plant should be included on or removed from the list and may, after the hearing, confirm or alter the decision of the Commissioner or direct the Commissioner to do any act he is authorized to do under this Act and as the Board Disposal of appeal

considers proper and, for such purposes, the Board may substitute its opinion for that of the Commissioner.

Effect of
decision of
Commissioner
pending
disposal
of appeal

(4) Notwithstanding that an operator has appealed under this section from a decision of the Commissioner, unless the Commissioner otherwise directs, the decision of the Commissioner is effective until the appeal is disposed of. 1980, c. 53, s. 3, *part*.

Parties

14.—(1) The Commissioner, the appellant and such other persons as the Board may specify are parties to the proceedings before the Board under this Act.

Members
making
decision
not to have
taken part
in investiga-
tion, etc.

(2) Members of the Board assigned to render a decision after a hearing shall not have taken part prior to the hearing in any investigation or consideration of the subject-matter of the hearing and shall not communicate directly or indirectly in relation to the subject-matter of the hearing with any person or with any party or his representative except upon notice to and opportunity for all parties to participate, but such members may seek legal advice from an adviser independent from the parties and in such case the nature of the advice should be made known to the parties in order that they may make submissions as to the law.

Recording of
evidence

(3) The oral evidence taken before the Board at a hearing shall be recorded and, if so required, copies or a transcript thereof shall be furnished upon the same terms as in the Supreme Court.

Only members
at hearing
to
participate
in decision

(4) No member of the Board shall participate in a decision of the Board after a hearing who was not present throughout the hearing and heard the evidence and argument of the parties and, except with the consent of the parties, no decision of the Board shall be given unless all members so present participate in the decision. 1980, c. 53, s. 3, *part*.

Application of
R.S.O. 1980,
c. 484

15. The *Statutory Powers Procedure Act* applies to any hearing by the Commissioner or the Board under this Act. 1980, c. 53, s. 3.

Appeal to
Divisional
Court

16.—(1) Any party to the hearing before the Board may appeal from the decision of the Board to the Divisional Court in accordance with the rules of court.

Minister
entitled to
be heard

(2) The Minister is entitled to appear, by counsel or otherwise, upon the argument of an appeal under this section.

Record to
be filed
in court

(3) The chairman of the Board shall file with the Registrar of the Supreme Court the record of the proceedings before the Board which, together with a transcript of the evidence before the Board if it is not part of the Board's record, constitutes the record on the appeal.

(4) An appeal under this section may be made on any question that is not a question of fact alone and the court may confirm or alter the decision of the Board or direct the Commissioner to do any act he is authorized to do under this Act or may refer the matter back to the Board for reconsideration by the Board as the court considers proper and the court may substitute its opinion for that of the Commissioner or the Board.

Powers of
court on
appeal

(5) Notwithstanding that an operator has appealed under this section from a decision of the Board, unless the Board otherwise directs, the decision of the Board is effective until the appeal is disposed of. 1980, c. 53, s. 3, *part*.

Effect of
decision
of Board
pending
disposal
of appeal

17. Every person who contravenes any of the provisions of this Act or the regulations is guilty of an offence and on conviction is liable to a fine of not more than \$1,000. 1980, c. 53, s. 4.

Offence

18. No proceedings or conviction under this Act affects the right of any person to any legal remedy to which he would otherwise be entitled. R.S.O. 1970, c. 42, s. 11.

Legal
remedy not
affected

19. For the purpose of jurisdiction, in an information or conviction for a contravention of any of the provisions of this Act or the regulations, the matter complained of may be alleged and shall be deemed to have arisen at the place where the cattle or carcasses were sold, offered, exposed or had in possession for sale or at the residence or usual place of residence of the person charged with the contravention. R.S.O. 1970, c. 42, s. 12.

Where
matter
complained
of deemed
to have
arisen

CHAPTER 42

Bees Act

1. In this Act,

Interpre-
tation

- (a) “bee-keeper” means a person who owns or is in possession of an apiary including the bees kept therein;
- (b) “bees” means the insects known as *apis mellifera*;
- (c) “bees-wax refuse” means damaged honeycombs, honeycomb cappings or the material remaining after the first rendering of used honeycombs or honeycomb cappings;
- (d) “disease” means,
 - (i) American foul brood, being the disease of the larvae and pupae of bees caused by organisms known as *bacillus larvae*,
 - (ii) European foul brood, being the disease of the larvae and pupae of bees caused by organisms known as *bacillus pluton* or *bacillus alvei*, and
 - (iii) any disease designated by the regulations as a disease within the meaning of this Act;
- (e) “infected” means infected with the causal organisms of a disease;
- (f) “inspector” means an inspector appointed under this Act;
- (g) “Minister” means the Minister of Agriculture and Food;
- (h) “package bees” means bees placed in a screened cage or package without honeycombs for the purpose of being shipped. R.S.O. 1970, c. 43, s. 1.

2. Bees reared and kept in hives are private property.
R.S.O. 1970, c. 43, s. 2.

Bees in
hive private
property

Right of
owner to
pursue and
recover
swarm

3.—(1) Subject to subsections (2), (3) and (4), where a swarm of bees leaves a hive, the owner of the swarm may enter upon the premises of any person and recover the swarm.

Where
owner
declines to
pursue
swarm

(2) Where the owner of a swarm of bees that leaves its hive declines to pursue it and another person takes up the pursuit, such other person is subrogated to all the rights of the owner in respect of the swarm.

Owner of
premises to
be notified

(3) Where the right to recover a swarm of bees is claimed under subsection (1) or (2), the person claiming the swarm shall notify the owner of the premises on which the swarm has settled before entering his premises and shall compensate him for any damage to his premises caused by the entry.

When right
of property
in swarm
lost

(4) Where a swarm of bees leaves a hive and settles in an occupied hive owned by a person other than the owner of the swarm, the owner of the swarm loses all right of property in the swarm. R.S.O. 1970, c. 43, s. 3.

Appoint-
ment of
Provincial
Apiarist and
inspectors

4.—(1) The Lieutenant Governor in Council may appoint a Provincial Apiarist, an Assistant Provincial Apiarist and such inspectors as are considered necessary for the administration and enforcement of this Act and the regulations.

Assistant
Provincial
Apiarist

(2) The Assistant Provincial Apiarist shall act in lieu of the Provincial Apiarist in the absence of the Provincial Apiarist or when so instructed to act by him and when so doing has all the powers and may perform any of the duties of the Provincial Apiarist.

Provincial
Apiarist

(3) The Provincial Apiarist has all the powers and may perform any of the duties of an inspector.

Duties of
inspector

(4) It is the duty of an inspector when he considers it necessary or when so instructed by the Provincial Apiarist,

(a) to inspect any bees, hives or equipment pertaining to the keeping of bees to ascertain if any disease exists in the bees, or if the hives or equipment are infected, or if the provisions of this Act and the regulations have been complied with or contravened;

(b) to inspect any books or records required by this Act or the regulations to be kept by bee-keepers and persons who sell bees.

Employment
of persons
by inspector

(5) With the approval of the Provincial Apiarist, an inspector may employ such persons as he requires to assist him in an inspection and such persons shall be paid such amounts as the Minister determines.

(6) In the performance of his duties under this Act and the regulations, an inspector may at any time between sunrise and sunset enter any premises where bees, hives, equipment or books or records pertaining to the keeping of bees are kept or stored. Right of entry

(7) No person shall obstruct the Provincial Apiarist, Assistant Provincial Apiarist or an inspector in the performance of his duties or furnish him with false information. Obstruction of inspector

(8) Every bee-keeper shall, when requested so to do by an inspector, assist the inspector in an inspection on the premises of the bee-keeper. R.S.O. 1970, c. 43, s. 4. Assistance of bee-keeper in inspection

5.—(1) Where an inspector has reasonable grounds for believing that disease of a virulent type exists in any bees or the causal organisms of such disease exist in or on any hives or equipment pertaining to the keeping of bees, he may, by order in writing, Destruction or treatment of infected bees

(a) require the bee-keeper to disinfect such bees, hives or equipment in such manner and within such period as the order requires; or

(b) require the bee-keeper to destroy by fire, within such period as the order requires, such bees, hives or equipment as in the opinion of the inspector cannot be disinfected.

(2) Where an inspector has reasonable grounds for believing that disease not of a virulent type exists in any bees or the causal organisms of such disease exist in or on any hives or equipment pertaining to the keeping of bees, he may, by order in writing, require the bee-keeper to disinfect such bees, hives or equipment in such manner and within such period as the order requires. 1971, c. 50, s. 12 (1). Treatment of infected bees

(3) If the bee-keeper fails to carry out the instructions in an order given under subsection (1) or (2) within such period as the order requires or if so requested by the bee-keeper, the inspector may carry out the instructions in the order and the bee-keeper shall compensate the inspector for any expenses incurred in carrying out the instructions. R.S.O. 1970, c. 43, s. 5 (3). Power of inspector to destroy or treat diseased bees, etc.

(4) Every order under this section shall be delivered to the bee-keeper by an inspector or mailed by prepaid mail to his last or usual place of abode and shall contain notice to the bee-keeper that he may appeal from the order to the Provincial Apiarist within five days after receipt of the order Order

and, where the order is mailed, the bee-keeper shall be deemed to have received the order on the third day after the day of mailing unless he did not, acting in good faith, through absence, accident, illness or other cause beyond his control receive the order until a later date. 1971, c. 50, s. 12 (2).

Bees in hive
without
movable
frames

6.—(1) No bee-keeper shall keep bees in a hive without movable frames.

Transfer of
bees to hives
with mov-
able frames

(2) Where an inspector finds that bees are kept in a hive without movable frames, he may order that they be transferred to hives with movable frames within such period as he specifies.

Failure of
bee-keeper
to transfer

(3) If a bee-keeper fails to transfer the bees in accordance with an order under subsection (2), the inspector may destroy the hives and the bees dwelling therein. R.S.O. 1970, c. 43, s. 6.

Appeal

7.—(1) Where a bee-keeper considers himself aggrieved by an order of an inspector, he may within five days of the receipt of the order appeal against the order by notice to the Provincial Apiarist. R.S.O. 1970, c. 43, s. 7 (1).

Item

(2) An appeal under this section may be made in writing or orally or by telephone to the Provincial Apiarist, but the Provincial Apiarist may require the grounds for appeal to be specified in writing before the hearing.

Hearing

(3) Upon being notified of an appeal, the Provincial Apiarist shall, after a hearing, confirm, revoke or modify the order appealed against and shall notify the appellant of his decision by prepaid mail and the appellant shall carry out such order as is given by the Provincial Apiarist in his decision.

Parties

(4) The bee-keeper and the inspector who made the order appealed from are parties to an appeal under this section. 1971, c. 50, s. 12 (3).

Information
as to the
location of
hives, etc.,
to be given
inspector

8. When requested by an inspector, every bee-keeper shall inform the inspector of the location of all hives and equipment pertaining to the keeping of bees in the possession of the bee-keeper. R.S.O. 1970, c. 43, s. 8.

Concealing
existence
of disease

9. No bee-keeper shall conceal the existence of any disease. R.S.O. 1970, c. 43, s. 9.

Duty of
bee-keeper
to report
existence
of disease

10. Every bee-keeper who finds the existence of disease of a virulent type in his own apiary or elsewhere shall immediately report the existence of the disease to the Provincial Apiarist. R.S.O. 1970, c. 43, s. 10.

11.—(1) The Lieutenant Governor in Council may declare a quarantine of bees in any area in Ontario that he designates and may fix the duration of the quarantine and the conditions with respect thereto. ^{Quarantine of bees}

(2) No person shall move any bees, hives or equipment pertaining to the keeping of bees to or from an area of quarantine without a permit from the Provincial Apiarist. ^{Moving bees to or from quarantine}
R.S.O. 1970, c. 43, s. 11.

12.—(1) No bee-keeper shall sell or remove or cause to be removed from his premises any bees, hives or equipment pertaining to the keeping of bees without a permit from the Provincial Apiarist stating that such bees, hives or equipment were inspected and found to be free from disease or infection. ^{Permit required for sale or removal of bees}

(2) Subsection (1) does not apply where the bees and equipment are moved by the bee-keeper from his extracting plant to his apiaries or from his apiaries to his extracting plant. ^{Exception}
R.S.O. 1970, c. 43, s. 12.

13. No person shall receive or transport in any manner within Ontario any bees other than package bees or used hives or used equipment pertaining to the keeping of bees obtained from outside Ontario without a permit from the Provincial Apiarist stating that he is satisfied that such bees are free from disease and that such used hives or used equipment are not infected. ^{Permit required to receive or transport bees obtained outside Ontario}
R.S.O. 1970, c. 43, s. 13.

14. No bee-keeper shall expose on his premises or elsewhere any infected honeycomb or honey in such manner that it is accessible to bees. ^{Exposing of infected honeycomb or honey}
R.S.O. 1970, c. 43, s. 14.

15.—(1) Where dead colonies of bees or honeycombs are exposed in such manner that they are accessible to bees, except where they are exposed for the purpose of cleaning or disinfecting, the Provincial Apiarist may require the bee-keeper to dispose of such colonies and honeycombs in such manner and within such period as the Provincial Apiarist specifies. ^{Disposal of dead colonies of bees, etc.}

(2) If the bee-keeper fails to dispose of such colonies and honeycombs as required by the Provincial Apiarist, the Provincial Apiarist may dispose of them and the bee-keeper shall compensate the Provincial Apiarist for any expense incurred in disposing of them. ^{Disposal by inspector}
R.S.O. 1970, c. 43, s. 15.

16. No person who sells package bees shall use as food for such bees any honey or candy containing honey. ^{Honey prohibited as food for bees}
R.S.O. 1970, c. 43, s. 16.

Bees
obtained
outside
Ontario

17. Every person who receives bees that have been obtained from outside Ontario shall, within ten days of the receipt of the bees, notify the Provincial Apiarist that the bees have been received. R.S.O. 1970, c. 43, s. 17.

Spraying of
fruit trees

18. No person shall spray or dust fruit trees during the period within which the trees are in bloom with a mixture containing any poisonous substance injurious to bees unless almost all the blossoms have fallen from the trees. R.S.O. 1970, c. 43, s. 18.

Location
of hives

19.—(1) No person in a place other than an urban municipality or suburban district designated under this section shall place or leave hives containing bees within nine metres of a highway, dwelling or cultivated field. R.S.O. 1970, c. 43, s. 19 (1); 1978, c. 87, s. 4 (1).

Exception

(2) Subsection (1) does not apply to hives placed or left on lands where the lands are separated from the highway, dwelling or cultivated field by a hedge or a solid fence at least two metres in height and extending at least 4.5 metres from the hives in both directions. R.S.O. 1970, c. 43, s. 19 (2); 1978, c. 87, s. 4 (2).

Location
of hives
in urban
municipi-
palities,
etc.

(3) No person in an urban municipality or suburban district designated under this section shall place or leave hives containing bees within thirty metres of a property line separating the lands on which the hives are placed or left from lands occupied by a dwelling or used for purposes of a community centre, public park or other place of public assembly or recreation. R.S.O. 1970, c. 43, s. 19 (3); 1978, c. 87, s. 4 (3).

By-laws
designating
suburban
districts

(4) The council of any township may pass by-laws designating as a suburban district any part of the township that adjoins an urban municipality or that adjoins another designated suburban district.

Approval of
Minister

(5) A by-law passed under subsection (4) shall not take effect until it is approved by the Minister. R.S.O. 1970, c. 43, s. 19 (4, 5).

Transporting
of used
containers

20. No person shall sell, transport or ship within Ontario any used honey container that has not been properly cleansed. R.S.O. 1970, c. 43, s. 20.

Certificate of
registration

21.—(1) No person shall keep bees in Ontario without a certificate of registration from the Provincial Apiarist.

Application

(2) Every application for a certificate of registration shall be made to the Provincial Apiarist, accompanied by the prescribed fee.

(3) Every certificate of registration expires on the 31st day ^{Expiry} of May in each year. R.S.O. 1970, c. 43, s. 21.

22. No person shall buy, sell or transport bees-wax ^{Bees-wax} refuse ^{refuse and} or used honeycombs between the 1st day of April and the 1st ^{used honey-} day of December in any year without a permit from the ^{combs} Provincial Apiarist. R.S.O. 1970, c. 43, s. 22.

23. Every bee-keeper and every person who sells bees shall, ^{Records} ^{and} ^{returns}

- (a) keep such books and records as the regulations prescribe; and
- (b) make such returns in such manner and at such times as the regulations prescribe. R.S.O. 1970, c. 43, s. 23.

24. Every person who contravenes any provision of this ^{Offence} Act or the regulations or any order of the Provincial Apiarist, Assistant Provincial Apiarist or an inspector is guilty of an offence and on conviction is liable to a fine of not less than \$10 and not more than \$50 for a first offence and to a fine of not less than \$25 and not more than \$100 or to imprisonment for a term of not more than thirty days for any subsequent offence. R.S.O. 1970, c. 43, s. 24.

25. The Lieutenant Governor in Council may make regu- ^{Regulations} lations,

- (a) prescribing the fees that shall be paid for a certificate of registration;
- (b) providing for the keeping of a register of bee-keepers;
- (c) prescribing the books and records that shall be kept by bee-keepers and by persons who sell bees or package bees;
- (d) prescribing the returns that shall be made to the Provincial Apiarist by bee-keepers and by persons who sell bees or package bees;
- (e) requiring and prescribing the reports that shall be made to the Provincial Apiarist by inspectors;
- (f) designating any area in Ontario as a queen bee breeding area and regulating the keeping of bees in such area;

- (g) designating any disease of bees to be a disease within the meaning of this Act;
- (h) prescribing forms and providing for their use;
- (i) respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act.
R.S.O. 1970, c. 43, s. 25.

CHAPTER 43

Bills of Sale Act

1. In this Act,

Interpre-
tation

- (a) “actual and continued change of possession” means such change of possession as is open and reasonably sufficient to afford public notice thereof;
- (b) “branch registrar” means the branch registrar for a branch office established under Part IV of the *Personal Property Security Act*; R.S.O. 1980,
c. 375
- (c) “creditors” includes creditors of a seller suing on behalf of themselves and other creditors, an assignee in insolvency or trustee in bankruptcy of a seller, the liquidator of a company in a winding up proceeding under the *Winding-up Act* (Canada), and an assignee for the general benefit of creditors, as well as creditors having executions against the goods of a seller in the hands of a sheriff or other officer; R.S.C. 1970,
c. W-11
- (d) “goods” has the same meaning as in the *Sale of Goods Act*. R.S.O. 1980,
c. 462
R.S.O. 1970, c. 44, s. 1; 1972, c. 1,
s. 26 (1).

2. This Act does not apply to an assignment for the general benefit of creditors to which the *Assignments and Preferences Act* applies. Assignment
for benefit
of creditors
excepted
R.S.O. 1980,
c. 33
R.S.O. 1970, c. 44, s. 2.

3. Every sale of goods, not accompanied by an immediate delivery and followed by an actual and continued change of possession of the goods sold, shall be evidenced by a writing signed by the seller, and such writing is a bill of sale under this Act, and such bill of sale, accompanied by an affidavit of an attesting witness thereto of the due execution of the bill of sale and an affidavit of the buyer that the sale is *bona fide* and for good consideration, as set forth in the bill of sale, and not for the purpose of holding or enabling the buyer to hold the goods mentioned therein against the creditors of the seller, shall be registered as provided by this Act; otherwise the sale is void as against the creditors of the seller and as against subsequent buyers and mortgagees in good faith. Sale of
goods not
attended
with
delivery
R.S.O. 1970, c. 44, s. 3.

Effect of
agreement
to make
a sale

4. Every covenant, promise or agreement to make a sale of goods shall be evidenced by a writing and shall be deemed to be a sale of goods within the meaning of this Act. R.S.O. 1970, c. 44, s. 4.

Bills of
sale of
goods not in
possession
of seller
or intended
for future
delivery

5. This Act applies to a sale of goods that may not be the property of or in the possession, custody or control of the seller or any person on his behalf at the time of the sale, and notwithstanding that the goods may be intended to be delivered at some future time, or that they may not at the time of the sale be actually procured or provided or fit or ready for delivery, or that some act may be required for the making or completing of the goods or rendering them fit for delivery. R.S.O. 1970, c. 44, s. 5.

When sub-
sequent
possession
not to
validate
sale other-
wise void

6. A sale of goods that is void under this Act shall not by the subsequent taking of possession of the goods by the buyer be thereby made valid as against persons who became creditors, buyers or mortgagees in good faith before such taking of possession. R.S.O. 1970, c. 44, s. 6.

Effect
of bill
of sale

7. Except as otherwise provided by this or any other Act, a bill of sale is effective according to its terms between the parties to it and against third parties. R.S.O. 1970, c. 44, s. 7.

Where
bills of
sale, etc.,
to be
registered

8.—(1) Subject to subsection (2), bills of sale and renewal statements under this Act shall be registered in the office of the branch registrar of the county or district in which the goods sold are situate at the time of the execution of the bill of sale. R.S.O. 1970, c. 44, s. 8 (1); 1972, c. 1, s. 26 (2).

Haliburton

(2) Where the goods are situate in the Provisional County of Haliburton, bills of sale and renewal statements shall be registered in the office of the branch registrar of the County of Victoria. R.S.O. 1970, c. 44, s. 8 (2); 1972, c. 1, s. 26 (2).

Limitation
of time for
registration

9.—(1) In the case of a county, a bill of sale shall be registered within five days from the execution thereof.

Haliburton
and
districts

(2) In the case of the Provisional County of Haliburton or of a district, a bill of sale shall be registered within ten days from the execution thereof.

Computa-
tion of
time for
registration

(3) Where there are more sellers than one, the time shall be computed from the execution of the instrument by the last seller who executed it. R.S.O. 1970, c. 44, s. 9.

10.—(1) Where a bill of sale is not registered within the time prescribed by this Act, a judge of a county or district court on application may, upon such terms and conditions and with such notice, if any, as he may order, extend the time for registration upon being satisfied that no interest of any other person will be prejudiced by such extension, but, in the event that it later appears that the late registration has prejudiced the rights that any person acquired before the late registration, the late registration shall be presumed not to have been done in conformity with this Act, and the rights that such person acquired before the late registration shall be determined on that basis. ^{Extension of time}

(2) A copy of an order made under subsection (1) shall ^{Idem} for the purpose of registration be attached to the bill of sale to which the order relates. R.S.O. 1970, c. 44, s. 10.

11. A bill of sale shall not be registered unless, in addition to the other requirements of this Act, it contains and legibly ^{Contents of bill of sale for registration} sets forth at least,

- (a) the full name and address of the seller;
- (b) the full name and address of the buyer;
- (c) the date of execution of the bill of sale;
- (d) a description of the goods sold sufficient to identify them; and
- (e) the terms and conditions of the bill of sale. R.S.O. 1970, c. 44, s. 11.

12.—(1) An affidavit of *bona fides* required by section 3 may be made by one of two or more buyers or by his or their agent if the deponent is aware of all the circumstances connected with the bill of sale and is authorized in writing to take the bill of sale. ^{Who may make affidavits of bona fides}

(2) If a bill of sale under this Act is made to a corporation, the affidavit of *bona fides* may be made by any officer or agent thereof authorized to do so by resolution of the directors. ^{In the case of a corporation}

(3) Where an affidavit of *bona fides* is made by an agent of the buyer or by an officer or agent of a corporation, it shall state that the deponent is aware of all the circumstances connected with the bill of sale and has personal knowledge of the facts deposed to. ^{Affidavits made by agents or officers}

(4) When a bill of sale is made to a corporation having branches, agencies or offices opened pursuant to statutory authority, the affidavit of *bona fides* may be made by the ^{Branch managers, etc., may make affidavit of bona fides}

manager, assistant manager or accountant of any such branch, agency or office without being authorized so to do by resolution of the directors, and the affidavit shall state that the deponent is aware of all the circumstances connected with the bill of sale and has personal knowledge of the facts deposed to.

Agent's
authority
to be
attached
to bill
of sale

(5) A copy of an authority referred to in this section shall, for the purposes of registration, be attached to the bill of sale to which the authority relates.

Affidavit of
executor,
etc.

(6) An affidavit of *bona fides* may, in the case of the death of the buyer, be made by any of his next of kin or by his executor or administrator if the deponent is aware of all the circumstances connected with the bill of sale. R.S.O. 1970, c. 44, s. 12.

Expiry of
existing
registrations

13.—(1) The registration of every bill of sale made under *The Bills of Sale and Chattel Mortgages Act*, being chapter 45 of the Revised Statutes of Ontario, 1970, before the 1st day of April, 1976 expires on the third anniversary date of the original registration after that day unless a renewal statement in the prescribed form containing the particulars mentioned in section 11 is registered before such anniversary date.

Idem,
future
registrations

(2) Every registration made under this Act expires three years after the date of registration, unless a renewal statement in the prescribed form is registered before the three-year period expires.

Effect of
registration
of renewal
statement

(3) The registration of a renewal statement extends the effect of the original registration for three years from the date of registration of the renewal statement, and so on from time to time.

Extension
of time

(4) Where a renewal statement is not registered within the time prescribed by this section, a judge of a county or district court on application may, upon such terms and conditions and with such notice, if any, as he may order, extend the time for registration upon being satisfied that no interest of any other person will be prejudiced by such extension, but, in the event that it later appears that any such registration within the period so extended has prejudiced the rights that any person acquired before the registration, such registration shall be presumed not to have been done in conformity with this Act for the purpose of determining the rights that such person acquired before the registration.

Idem

(5) A copy of an order made under subsection (4) shall for the purposes of registration be attached to the renewal statement to which the order relates. R.S.O. 1970, c. 44, s. 13.

14.—(1) Upon the request of any person, the branch registrar shall furnish a copy of any document registered in his office under this Act, and of any endorsement thereon, certified under his hand. R.S.O. 1970, c. 44, s. 14 (1); 1972, c. 1, s. 26 (2, 3).

(2) A copy of any document and of any endorsement thereon certified under subsection (1) is *prima facie* evidence that the document was registered according to the endorsement thereon. R.S.O. 1970, c. 44, s. 14 (2).

15. The branch registrar shall make an entry of every bill of sale and renewal statement registered in his office under this Act in an index to be kept for that purpose. R.S.O. 1970, c. 44, s. 15; 1972, c. 1, s. 26 (2).

16. During the regular office hours of the branch registrar any person may require a search to be made of the index of documents registered under this Act and may inspect any document registered under this Act. R.S.O. 1970, c. 44, s. 16; 1972, c. 1, s. 26 (2).

17. The branch registrar is entitled for services under this Act to the fees prescribed by the regulations made under this Act. R.S.O. 1970, c. 44, s. 17; 1972, c. 1, s. 26 (2).

18. The Lieutenant Governor in Council may make regulations,

- (a) requiring the payment of fees and prescribing the amounts thereof;
- (b) prescribing forms and providing for their use;
- (c) respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act. R.S.O. 1970, c. 44, s. 18.

CHAPTER 44

Blind Persons' Rights Act

1.—(1) In this Act,

Interpre-
tation

- (a) "blind person" means a person who because of blindness is dependent on a dog guide or white cane;
- (b) "dog guide" means a dog trained as a guide for a blind person and having the qualifications prescribed by the regulations.

(2) This Act applies notwithstanding any other Act or any regulation, by-law or rule made thereunder.

Application

(3) This Act binds the Crown. 1976, c. 14, s. 1.

Act binds
Crown

2.—(1) No person, directly or indirectly, alone or with another, by himself or by the interposition of another, shall,

Dog guides
permitted
in places
to which
public
admitted

- (a) deny to any person the accommodation, services or facilities available in any place to which the public is customarily admitted; or
- (b) discriminate against any person with respect to the accommodation, services or facilities available in any place to which the public is customarily admitted, or the charges for the use thereof,

for the reason that he is a blind person accompanied by a dog guide.

(2) No person, directly or indirectly, alone or with another, by himself or by the interposition of another, shall,

Dog guides
permitted
in self-
contained
dwelling
unit

- (a) deny to any person occupancy of any self-contained dwelling unit; or
- (b) discriminate against any person with respect to any term or condition of occupancy of any self-contained dwelling unit,

for the reason that he is a blind person keeping or customarily accompanied by a dog guide.

Other
facilities

(3) Nothing in this section shall be construed to entitle a blind person to require any service, facility or accommodation in respect of a dog guide other than the right to be accompanied by the dog guide. 1976, c. 14, s. 2.

Restriction
on use of
white cane

3. No person, other than a blind person, shall carry or use a cane or walking stick, the major part of which is white, in any public place, public thoroughfare or public conveyance. 1976, c. 14, s. 3.

Identification
cards

4.—(1) The Attorney General or an officer of his Ministry designated by him in writing may, upon application therefor, issue to a blind person an identification card identifying the blind person and his dog guide.

Cards as
prima facie
proof of
qualification

(2) An identification card issued under subsection (1) is *prima facie* proof that the blind person and his dog guide identified therein are qualified for the purposes of this Act.

Surrender
of cards

(3) Any person to whom an identification card is issued under subsection (1) shall, upon the request of the Attorney General or an officer of his Ministry designated by him in writing, surrender his identification card for amendment or cancellation. 1976, c. 14, s. 4.

Regulations

5. The Lieutenant Governor in Council may make regulations prescribing qualifications for dog guides. 1976, c. 14, s. 5.

Penalty

6.—(1) Every person who is in contravention of section 2 is guilty of an offence and on conviction is liable to a fine not exceeding \$1,000.

Idem

(2) Every person who is in contravention of section 3 or of subsection 4 (3) or who, not being a blind person, purports to be a blind person for the purpose of claiming the benefit of this Act is guilty of an offence and on conviction is liable to a fine not exceeding \$100. 1976, c. 14, s. 6.

CHAPTER 45

Blind Workmen's Compensation Act**1. In this Act,**Interpre-
tation

- (a) "blind workman" means a workman as defined by the *Workmen's Compensation Act* who has a central visual acuity in his better eye reading 6-60 or 20-200 or less; R.S.O. 1980, c. 539
- (b) "Board" means The Workmen's Compensation Board;
- (c) "employer" means an employer as defined by the *Workmen's Compensation Act* who has in his employ a blind workman;
- (d) "full cost of compensation" means the compensation, burial expenses, cost of furnishing medical aid, and all other amounts payable under or by virtue of Part I of the *Workmen's Compensation Act* by reason of a blind workman meeting with an accident for which he would be entitled to compensation under such Act, and includes the capitalized sum or present value of the sum required as determined by the Board to provide for future payments of compensation to the pensioner or his dependants;
- (e) "Institute" means The Canadian National Institute for the Blind;
- (f) "Ministry" means the Ministry of Labour. R.S.O. 1970, c. 46, s. 1; 1972, c. 1, s. 1.

2. Where the full cost of compensation exceeds \$50, the Ministry shall, in the case of industries coming under Schedule 1 of the regulations under the *Workmen's Compensation Act*, pay the compensation to the Board by way of reimbursement to the accident fund as defined by such Act, and, in the case of industries coming under Schedule 2 of such regulations, pay the compensation to the employer, such payment or payments to be made out of the moneys appropriated therefor by the Legislature upon receiving from the Board a certificate of the full cost of compensation, which certificate may be accepted by the Ministry without further proof. Reimbursement to employers
R.S.O. 1970, c. 46, s. 2; 1972, c. 1, s. 1.

Prior
awards
R.S.O. 1980,
c. 539

3. In making any award to a blind workman for injury by accident under the *Workmen's Compensation Act*, the Board may have regard to any previous awards made to him for injury under such Act. R.S.O. 1970, c. 46, s. 3.

Assessments

4. The assessment on an employer to be levied by the Board on the wages of a blind workman may be fixed by the Board at such an amount as may be considered fair, having regard to the *Workmen's Compensation Act*. R.S.O. 1970, c. 46, s. 4.

Proper
placement

5.—(1) Subject to subsection (2), the Institute has exclusive jurisdiction as to the nature of the work a blind workman shall do and as to the proper placement of such workman.

Assignment
of powers
and duties
of the
Institute

(2) Upon the recommendation of the Board, the Lieutenant Governor in Council may designate any other organization or institution to execute the powers and perform the duties assigned to the Institute under this Act and thereupon this Act shall be read as though the name of the organization or institution was substituted for the Institute. R.S.O. 1970, c. 46, s. 5.

Waiver of
rights in
case of
improper
placement

6. An employer giving employment to a blind workman without the consent or approval of the Institute, or changing the nature of such employment once approved by the Institute without the consent or approval of the Institute, shall be deemed to have waived all right to the benefit of this Act in respect of injury to such blind workman. R.S.O. 1970, c. 46, s. 6.

Access to
blind
workman

7. Officers of the Institute shall have access at all times to the place of employment of a blind workman with the knowledge and consent of the superintendent or foreman. R.S.O. 1970, c. 46, s. 7.

Certificates
or other
requisitions

8. The Institute shall provide the Board, upon request, with all such certificates or other material as may be required by the Board in the fulfilment of its duties. R.S.O. 1970, c. 46, s. 8.

CHAPTER 46

Boilers and Pressure Vessels Act**1. In this Act,**Interpre-
tation

1. “boiler” means a fired vessel in which gas or vapour may be generated or a gas, vapour or liquid may be put under pressure by heating, and includes any pipe, fitting and other equipment attached thereto or used in connection therewith, except that, where the expression is used in respect of the approval and registration of its design, “boiler” means a fired vessel in which gas or vapour may be generated or a gas, vapour or liquid may be put under pressure by heating;
2. “certificate of approval” means a certificate issued under this Act for a boiler or pressure vessel not inspected during fabrication or for a plant not inspected during installation;
3. “certificate of competency” means a certificate issued under this Act to a person qualified to inspect boilers, pressure vessels and plants, and includes a renewal thereof;
4. “certificate of inspection” means a certificate issued under this Act in respect of any inspection of a boiler, pressure vessel or plant, and includes a certificate of inspection issued by an insurer;
5. “chief inspector” means the chief inspector designated under this Act;
6. “design”, in reference to a boiler, pressure vessel or plant, means its plan or pattern, and includes drawings, specifications and, where required, the calculations and a model;
7. “design pressure” means the maximum pressure that a boiler, pressure vessel or plant is designed to withstand safely when operating normally;
8. “fired vessel” means a vessel that is directly heated by,

- (a) a flame or the hot gases of combustion,
 - (b) electricity,
 - (c) rays from a radioactive source, or
 - (d) molecular agitation arising from the process of fission;
9. "fitting" means a safety valve, stop valve, automatic stop-and-check valve, a blow-down valve, reducing valve, water gauge, gauge cock, pressure gauge, injector, test cock, fusible plug, regulating or controlling device, and pipe fittings, attached to or used in connection with a boiler, pressure vessel or plant;
10. "inspector" means an inspector appointed under this Act, and includes the chief inspector;
11. "insurer" means a person licensed under the *Insurance Act* to undertake boiler and machinery insurance as defined by that Act;
12. "low pressure boiler" means,
- (a) a boiler in which gas or vapour is generated and that is intended to be operated or is operated at a gas or vapour pressure of not more than 15 pounds, or
 - (b) a boiler in which a liquid is heated but no gas or vapour is generated and that is intended to be operated or is operated at a liquid pressure of not more than 160 pounds and in which the liquid at the outlet does not exceed 250°F.;
13. "major repairs" means repairs that may affect the strength of a boiler, pressure vessel or plant;
14. "maximum allowable pressure" means the maximum pressure at which a boiler, pressure vessel or plant is permitted to be operated or used under this Act;
15. "Minister" means the Minister of Consumer and Commercial Relations;
16. "owner" includes a person for the time being in possession of a boiler, pressure vessel or plant;

17. "periodic inspection" means an inspection made at intervals of other than twelve months;
18. "pipe" means any pipe attached to or connected with a boiler, pressure vessel or plant;
19. "plant" means a system of piping that is used to contain a gas, vapour or liquid under pressure, and includes any boiler or pressure vessel connected thereto;
20. "pressure" means pressure in pounds per square inch measured above prevailing atmospheric pressure;
21. "pressure vessel" means an unfired vessel that may be used for containing, storing, distributing, transferring, distilling, processing or otherwise handling any gas, vapour or liquid under pressure, and includes any pipe, fitting and other equipment attached thereto or used in connection therewith, except that, where the expression is used in respect of the approval and registration of its design, "pressure vessel" means an unfired vessel that may be used for containing, storing, distributing, transferring, distilling, processing or otherwise handling any gas, vapour or liquid under pressure;
22. "professional engineer" means a person registered as a professional engineer or a person who is licensed to practise as a professional engineer under the *Professional Engineers Act*;
23. "regulations" means the regulations made under this Act;
24. "seal" means to take any measures satisfactory to the chief inspector that will effectively prevent the operation or use of a boiler, pressure vessel or plant;
25. "used boiler, pressure vessel or plant" means a boiler, pressure vessel or plant that has been sold or exchanged and that has been moved from its previous site of installation for use elsewhere;
26. "welding" means welding in the fabrication or repair of a boiler, pressure vessel or plant;
27. "welding operator" means a person engaged in welding, either on his own account or in the employ of another person, on the fabrication or repair of

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boilers, pressure vessels or plants or parts thereof. R.S.O. 1970, c. 47, s. 1; 1972, c. 1, s. 28; 1972, c. 31, s. 1.

Exemptions
from Act

2.—(1) This Act does not apply to,

- (a) a boiler used in connection with a hot liquid heating system that has no valves or other obstructions to free circulation between the boiler and an expansion tank that is vented freely to the atmosphere;
- (b) a low pressure boiler having a heating surface of 30 square feet or less;
- (c) a boiler, pressure vessel or plant used exclusively for agricultural purposes;
- (d) a pressure vessel having a capacity of 1½ cubic feet or less;
- (e) a pressure vessel for permanent use at a pressure of 15 pounds or less;
- (f) a pressure vessel having an internal diameter of 6 inches or less;
- (g) a pressure vessel having an internal diameter of 24 inches or less used for the storage of hot water for domestic use;
- (h) a pressure vessel used exclusively for hydraulic purposes at atmospheric temperature;
- (i) a pressure vessel having an internal diameter of 24 inches or less connected in a water-pumping system containing air that is compressed to serve as a cushion;
- (j) a refrigeration plant having a capacity of three tons or less of refrigeration in twenty-four hours.

Additional
exemptions

(2) The Lieutenant Governor in Council may exempt any class of boiler, pressure vessel or plant from this Act or the regulations or any provision thereof. R.S.O. 1970, c. 47, s. 2.

Inspectors,
appoint-
ment

3.—(1) The Lieutenant Governor in Council may appoint inspectors to inspect boilers, pressure vessels and plants under this Act, and may designate one of them as the chief inspector.

Inspectors
not to have
interest in
sale, etc.,
of boilers,
etc.

(2) No person shall be appointed or act as an inspector who has any direct or indirect financial interest in boilers, pressure vessels or plants. R.S.O. 1970, c. 47, s. 3.

4.—(1) No person shall carry out an inspection of a boiler, pressure vessel or plant for the purposes of this Act who does not hold a certificate of competency.

Certificate
of
competency

(2) Subject to the regulations, every applicant for a certificate of competency shall pass such examinations and tests as the Minister may require.

Examina-
tions

(3) The Minister may suspend, cancel or refuse to renew any certificate of competency for such reasons as are prescribed by the regulations. R.S.O. 1970, c. 47, s. 4.

Suspension
and cancel-
lation

5. An inspector in the course of his duties may enter any building or premises where he has reason to believe that a boiler, pressure vessel or plant is being installed, operated or used. R.S.O. 1970, c. 47, s. 5.

Right to
enter build-
ings and
premises

6.—(1) No person shall hinder or obstruct an inspector in the performance of his duties under this Act or neglect or refuse to furnish information to an inspector in the performance of his duties or furnish him with false or misleading information.

Obstructing
officer, false
information,
etc.

(2) Every person shall furnish all necessary means in his power to facilitate any entry, inspection, examination or inquiry by an inspector in the exercise of his powers and the carrying out of his duties under this Act. R.S.O. 1970, c. 47, s. 6.

Entry,
inspection,
etc.

7. The chief inspector may by notice in writing require the attendance before him of any person at the time and place named in the notice and examine such person under oath regarding any matter pertaining to a boiler, pressure vessel or plant or in respect of an accident arising out of its operation or use. R.S.O. 1970, c. 47, s. 7.

Power to
require
attendance
and examine
under oath

8. On every annual or periodic inspection of a boiler, pressure vessel or plant, the inspector,

Powers and
duties of
inspectors on
inspection

(a) shall satisfy himself that the boiler, pressure vessel or plant is being operated or used and maintained in accordance with this Act and the regulations and that the safety valves have seals and are properly set; and

(b) shall review the maximum allowable pressure of the boiler, pressure vessel or plant and make any reduction in it for safe operation or use having regard to its design, fabrication, age, condition and use. R.S.O. 1970, c. 47, s. 8.

Power to
require
owner, etc.,
to do things
necessary
for proper
inspection

9. An inspector may require the owner or other person responsible for or in charge of a boiler, pressure vessel or plant,

- (a) to prepare it for inspection or test in such manner as the inspector requires and to supply water for and to assist in making any test;
- (b) to cut or drill holes in it or to use any other method to enable the inspector to determine its condition and the thickness of the metal;
- (c) to put it under pressure or otherwise put it into operation so that the inspector may test the safety valves or any part of the installation under operating conditions;
- (d) to stop the application of heat to a boiler or to reduce the pressure upon a boiler, pressure vessel or plant to a designated pressure if the inspector has reason to believe that it is in an unsafe condition; and
- (e) to do any other thing the inspector considers necessary to ensure a proper inspection. R.S.O. 1970, c. 47, s. 9.

Safety
measures
during
inspection,
repair, etc.

10. Where during an inspection, repair or the maintenance of a boiler, pressure vessel or plant there is any possibility of any gas, vapour or liquid causing injury to the person inspecting, repairing or maintaining it, the owner or other person responsible for or in charge thereof shall,

- (a) have a competent person stationed so as to prevent any gas, vapour or liquid from entering the boiler, pressure vessel or plant or any part thereof; and
- (b) take such other measures as will ensure the safety of the person inspecting, repairing or maintaining the boiler, pressure vessel or plant. R.S.O. 1970, c. 47, s. 10.

Directions
by inspector
re instal-
lation,
operation,
etc.

11.—(1) An inspector may give directions orally or in writing to the owner or other person responsible for or in immediate charge of a boiler, pressure vessel or plant on any matter pertaining to safety with regard to its installation, operation, care, maintenance or repair and require that his directions be carried out within such time as he specifies.

Refusal of
owner, etc.,
to obey
directions of
inspector

(2) If the owner or other person responsible for or in immediate charge of a boiler, pressure vessel or plant fails to comply with any direction given by an inspector, the

inspector shall order that the boiler, pressure vessel or plant be shut down or sealed and he shall forthwith report the circumstances to the chief inspector who may cancel the certificate of inspection or the certificate of approval. R.S.O. 1970, c. 47, s. 11.

12. Where in the opinion of an inspector a boiler, pressure vessel or plant is in an unsafe operating condition or is being operated in a dangerous manner, the inspector shall seal the boiler, pressure vessel or plant and take such steps as are necessary to remove the danger, and the chief inspector may cancel the certificate of inspection or the certificate of approval. R.S.O. 1970, c. 47, s. 12.

13. No person shall operate or use a boiler, pressure vessel or plant that has been shut down or sealed under section 11 or 12, or cause or permit it to be operated or used, or destroy, remove or tamper with the seal of an inspector until permission has been obtained from an inspector. R.S.O. 1970, c. 47, s. 13.

14.—(1) Where a boiler, pressure vessel, fitting or pipe is to be fabricated for use in Ontario, the designer shall submit its design and specifications to the chief inspector for approval and registration by him before commencing its fabrication. R.S.O. 1970, c. 47, s. 14 (1).

(2) Where approval and registration is sought for the design of a boiler or pressure vessel to be fabricated for use in Ontario the designer shall submit, with the design and specifications, drawings of the design that bear the signature and seal of a professional engineer. 1972, c. 31, s. 2.

(3) Where an unused boiler or pressure vessel has been fabricated and its design and specifications have not been approved and registered, the chief inspector may cause it to be inspected, and, if he is satisfied that it may be operated or used safely, may issue a certificate of inspection for it as a used boiler or pressure vessel.

(4) Where a plant is to be installed, its design and specifications shall be submitted to the chief inspector for approval and registration before its installation is commenced. R.S.O. 1970, c. 47, s. 14 (2, 3).

15.—(1) The chief inspector may require the inspection, (a) of a boiler or pressure vessel at any stage of its fabrication; or

(b) of a boiler, pressure vessel or plant at any stage of its installation.

Issue of
certificate of
inspection

(2) Where a boiler or pressure vessel has been inspected during fabrication or a plant has been inspected during installation, the inspector shall report thereon to the chief inspector who, if satisfied that it may be operated or used safely, may issue a certificate of inspection for it. R.S.O. 1970, c. 47, s. 15.

Certificate
of approval

16. Where the chief inspector has not required the inspection of a boiler or pressure vessel during its fabrication or of a plant during its installation, he may, if he is satisfied that it may be operated or used safely, issue a certificate of approval therefor. R.S.O. 1970, c. 47, s. 16.

Boiler, etc.,
defective
after
fabrication

17. Notwithstanding the approval and registration of its design, if a boiler, pressure vessel or plant is found to be defective after its fabrication or installation, as the case may be, the chief inspector may permit it to be operated or used within such limits of safety as he considers proper, and shall require the fabricator or installer to revise its design and specifications in order to correct its defects within such period as he may allow, and, failing such revision or if the defects cannot in his opinion be remedied, he shall cancel the approval and registration of the design, and no additional boiler, pressure vessel or plant shall be fabricated or installed therefrom. R.S.O. 1970, c. 47, s. 17.

Boiler,
etc., not
fabricated in
conformity
with
approved
design

18. Where a boiler, pressure vessel or plant has not been fabricated or installed, as the case may be, in conformity with its approved design but nevertheless may be used safely at a lower pressure than its design pressure, the person making the inspection shall fix its maximum allowable pressure having regard to its design, condition, installation and the purpose for which it is to be operated or used. R.S.O. 1970, c. 47, s. 18.

Prohibition
re operation
of boilers,
etc., at
unsafe
pressures

19.—(1) No person shall operate or use, or permit to be operated or used, any boiler, pressure vessel or plant at a working pressure higher than its design pressure.

Idem

(2) No person shall operate or use, or permit to be operated or used, a boiler, pressure vessel or plant at a pressure higher than its maximum allowable pressure as shown in the certificate of approval or the subsisting certificate of inspection. R.S.O. 1970, c. 47, s. 19.

Safety
valves

20.—(1) Subject to subsection (2), every boiler, pressure vessel or plant shall have at least one safety valve of adequate capacity set to relieve at or below its maximum allowable pressure.

(2) Where more than one boiler or pressure vessel are ^{Idem} connected in a plant for use at a common operating pressure, they shall be protected by one or more safety valves of adequate capacity set to relieve at or below the common maximum allowable pressure that shall not exceed the maximum allowable pressure of the weakest boiler or pressure vessel in the plant. R.S.O. 1970, c. 47, s. 20.

21. While a boiler, pressure vessel or plant is in operation ^{Tampering with fittings} or use, no person shall, without the permission of an inspector, alter, interfere with or render inoperative any fitting that is attached for safety purposes to the boiler, pressure vessel or plant. R.S.O. 1970, c. 47, s. 21.

22. Subject to subsection 28 (2), the owner of every boiler or ^{Annual or periodic inspection} pressure vessel in operation or use shall have it inspected at least once in every twelve months, or at such periodic intervals as are prescribed in the regulations, by an inspector or, on the instructions of the chief inspector, by a person having a subsisting certificate of competency. R.S.O. 1970, c. 47, s. 22.

23.—(1) Following any inspection, the inspector shall ^{Issue of certificate of inspection} make a report to the chief inspector on the condition and operation or use of the boiler, pressure vessel or plant, and, if the inspector is satisfied that it may continue to be operated or used safely, the chief inspector may issue a certificate of inspection.

(2) The fee for a certificate of inspection and the expenses ^{Fee and expenses} of the inspector shall be paid to the inspector at the time of inspection, unless the chief inspector has notified the inspector that the fee and expenses are being remitted direct to the chief inspector.

(3) The chief inspector shall not issue a certificate of ap- ^{Idem}proval or a certificate of inspection for a boiler, pressure vessel or plant until the provisions of this Act applicable thereto have been complied with and the prescribed fees and expenses have been paid. R.S.O. 1970, c. 47, s. 23.

24.—(1) A certificate of inspection or a certificate of ^{Certificate authorizes operation} approval is *prima facie* evidence of the inspection of the boiler, pressure vessel or plant, and the certificate, subject to this Act, authorizes the operation or use of the boiler, pressure vessel or plant in accordance with the terms of the certificate.

(2) Every certificate of inspection or certificate of approval ^{Expiration of certificate} remains in force for twelve months from the date of inspection unless it is sooner cancelled or unless a shorter or longer period is specified therein.

Maximum
pressure
to be
specified in
certificate

(3) The maximum allowable pressure at which a boiler, pressure vessel or plant may be operated or used and the safety valve set to relieve shall be specified in the certificate of inspection or certificate of approval.

Certificate
to be posted

(4) Every certificate of inspection or certificate of approval shall be kept in good condition by the owner of the boiler, pressure vessel or plant for which it was issued, and he shall post it in a conspicuous place near such boiler, pressure vessel or plant or, if that is impracticable, at such place as an inspector may direct. R.S.O. 1970, c. 47, s. 24.

Prohibition
re operation
without
certificate
of inspection

25. No person shall operate or use or permit to be operated or used a boiler, pressure vessel or plant unless a certificate of inspection or a certificate of approval for it is in force. R.S.O. 1970, c. 47, s. 25.

Further
inspection
at any time

26.—(1) Notwithstanding that a certificate of inspection or a certificate of approval is in force, the chief inspector may order a further inspection of a boiler, pressure vessel or plant at any time, or an inspector may make a further inspection at any time, and the owner shall pay the fee and expenses prescribed therefor.

Issue of
new
certificate

(2) Where an additional inspection is made under subsection (1), the inspector shall report thereon to the chief inspector who, if satisfied that the boiler, pressure vessel or plant may be operated or used safely, may issue a certificate of inspection for it. R.S.O. 1970, c. 47, s. 26.

Duties of
owner

27. Every owner of a boiler, pressure vessel or plant shall ensure that the boiler, pressure vessel or plant is maintained in a safe working condition and operated safely. 1972, c. 31, s. 3.

Insured
boilers,
etc.

28.—(1) Where a boiler or pressure vessel has been insured, every annual or periodic inspection shall be carried out by or through the insurer, and the insurer, if satisfied that the boiler or pressure vessel may be operated or used safely, shall issue a certificate of inspection therefor.

Exemption
from
inspection
by
inspector

(2) Where a boiler or pressure vessel is insured, it is exempt from annual or periodic inspection by inspectors appointed under this Act so long as the insurance is in force, unless the chief inspector requires the boiler or pressure vessel to be inspected by an inspector, in which case the fees and expenses referred to in section 23 shall be paid by the owner.

(3) Every insurer shall file with the chief inspector, within twenty-one days after an inspection has been made, a copy of the report of the inspection over the signature of the person making the inspection.

(4) Every insurer shall forthwith notify the chief inspector in writing of the cancellation or rejection of insurance on a boiler or pressure vessel, together with the reasons therefor.

(5) Where an insurer has cancelled insurance on a boiler or pressure vessel because he considers it unsafe for operation or use, he shall cancel its certificate of inspection, take possession of the certificate and forthwith notify the chief inspector in person or by telegram or telephone of the circumstances of the cancellation. R.S.O. 1970, c. 47, s. 28.

29.—(1) The Minister may permit the chief inspector to employ the services of an insurer or of any person qualified to engage in the business of inspection of boilers and pressure vessels in Ontario to make any inspection required under this Act and to report thereon within fourteen days after the completion of the inspection.

(2) Where a boiler or pressure vessel is to be fabricated outside Ontario in any province of Canada for use in Ontario, the chief inspector may arrange with the person in charge of the inspection of boilers and pressure vessels for the province in which it is to be fabricated to carry out inspections during its fabrication and may accept the inspection reports submitted to him by such person for the purposes of this Act.

(3) Where a boiler or pressure vessel is to be fabricated in the United States of America for use in Ontario, the chief inspector may arrange for the inspection of it during fabrication by an inspector holding a commission issued by the National Board of Boiler and Pressure Vessel Inspectors and may accept the inspection reports of such inspector for the purposes of this Act.

(4) Where a boiler or pressure vessel is to be fabricated outside Canada and the United States of America for use in Ontario, the chief inspector may arrange for the inspection of it during fabrication through any agency engaged in boiler or pressure vessel inspection and may accept the inspection reports of the agency for the purposes of this Act.

(5) Where a boiler or pressure vessel is inspected under subsection (1), (2), (3) or (4), a certificate of inspection therefor may be issued by the chief inspector. R.S.O. 1970, c. 47, s. 29.

Used
boilers, etc.,

30. Every used boiler, pressure vessel or plant shall be inspected and tested by an inspector before it is put into operation or use, and he shall report thereon to the chief inspector, and, if the chief inspector is satisfied that it may be operated or used safely, he may issue a certificate of inspection. R.S.O. 1970, c. 47, s. 30.

Boilers, etc.,
previously
used
outside
Ontario

31.—(1) No person shall install or permit to be installed a boiler, pressure vessel or plant previously used outside Ontario unless the consent of the chief inspector has been obtained for such installation.

Idem,
operation
or use

(2) No person shall operate or use, or permit to be operated or used, a boiler, pressure vessel or plant previously used outside Ontario unless the chief inspector has issued a certificate of inspection therefor. R.S.O. 1970, c. 47, s. 31.

Repairs to
boilers, etc.,
found
unsafe

32. Where a boiler, pressure vessel or plant is found to be in an unsafe condition, no person shall make any major repairs thereto until he has notified an inspector of the nature and extent of such repairs and an inspector has approved thereof, and the boiler, pressure vessel or plant shall not be put into operation or use until a further inspection by an inspector has been made and the chief inspector has issued a new certificate of inspection therefor. R.S.O. 1970, c. 47, s. 32.

Defects in
boilers, etc.,
to be
pointed
out to
inspector

33. When a boiler, pressure vessel or plant is being inspected, the owner or other person responsible for it or in immediate charge of it shall point out to the inspector any defect of which he has knowledge or that he believes to exist in it, and, if at any other time he learns of any defect that might render it unsafe to operate or use, he shall forthwith notify the chief inspector in person or by telegram or telephone of the circumstances. R.S.O. 1970, c. 47, s. 33.

Condemned
boilers, etc.

34.—(1) Where an inspector has inspected a boiler, pressure vessel or plant and has satisfied himself that it can no longer be operated or used safely, he shall condemn it and notify the chief inspector that he has condemned it and shall seal it with a seal or label indicating that it is condemned and shall take possession of its certificate of inspection.

Prohibition
re operation
of
condemned
boilers, etc.,

(2) No person shall operate or use, or permit to be operated or used, a boiler, pressure vessel or plant that has been condemned unless he has had it repaired as required by the chief inspector and a further inspection has been made by an inspector and the chief inspector has issued a new certificate of inspection therefor.

(3) No boiler, pressure vessel or plant that has been condemned shall be moved to another location for operation or use without the consent of the chief inspector. R.S.O. 1970, c. 47, s. 34.

Prohibition as to removal for use

35. The owner of a boiler, pressure vessel or plant, upon permanently removing it from operation or use, shall forthwith notify, in the prescribed form, the chief inspector of such removal. R.S.O. 1970, c. 47, s. 35.

Notice of removal from operation

36.—(1) The procedures to be followed in welding shall be approved by the chief inspector.

Approval of procedures in welding

(2) Every welding operator shall pass such qualification tests as the chief inspector may require.

Qualification tests

(3) No welding operator shall weld except under an approved procedure.

Welding to be done under approved procedure

(4) The chief inspector shall issue an identification card to every welding operator who passes a qualification test.

Identification card

(5) Every identification card shall indicate the employer for whom the welding operator is qualified to weld or that he is self-employed or that he desires to be employed and the class or position of welding that he is qualified to do.

Idem

(6) A welding operator may be required at any time to pass such further qualification tests as the chief inspector may require, at which time his identification card shall be cancelled and, on his passing such further tests, a new identification card shall be issued to him.

Further tests

(7) Such fees as are prescribed by the regulations for the test of a welding operator shall be paid at the time the test is given by the employer of the welding operator or, if he is self-employed or desires to be employed, by himself.

Fees

(8) Every welding operator shall carry his identification card upon his person when welding and shall produce it when requested by an inspector.

Identification card to be carried

(9) When a welding operator changes his employer or is first employed by an employer, he shall not commence to weld for his new employer or his employer, as the case may be, until he has passed a further qualification test and has been issued a new identification card.

Welding for new employer

(10) No welding operator shall do welding,

Prohibition of unqualified person to weld

(a) unless he is the holder of a subsisting identification card;

- (b) in the employ of any person other than the employer named on his identification card; or
- (c) of a class or position of welding for which he is not qualified.

Employer
not to
permit
welding by
unqualified
person

(11) No employer shall permit a welding operator,

- (a) to weld unless he is the employer named in the welding operator's identification card; or
- (b) to do a class of welding or to weld in a position for which the welding operator is not qualified. R.S.O. 1970, c. 47, s. 36.

Notification
of accidents

37.—(1) Where an explosion or rupture of a boiler, pressure vessel or plant occurs, or where an accident arises out of its operation or use that causes injury or death to a person, or property damage, the owner or person in charge shall forthwith notify the chief inspector in person or by telegram or telephone giving him full details of the accident and shall within forty-eight hours after the explosion or rupture occurs send him a written report of the circumstances of the occurrence.

Investigation
of accident

(2) The chief inspector or any inspector under his instruction shall investigate any explosion, rupture or accident so reported, or of which he becomes aware, to determine its cause. R.S.O. 1970, c. 47, s. 37.

After
explosion or
rupture,
parts not
to be
removed.
etc.

38. Where an explosion or rupture of a boiler, pressure vessel or plant occurs, no person shall, except for the purpose of saving life or relieving human suffering, interfere with, disturb, destroy, carry away or alter any wreckage, article or thing at the scene of or connected with the occurrence until permission so to do is given by an inspector. R.S.O. 1970, c. 47, s. 38.

Appeal from
action of
inspector

39.—(1) Any person who is dissatisfied with an inspection or action taken by an inspector may within thirty days thereof appeal to the Minister, who may thereupon cause another inspection to be made by one or more inspectors who shall report to him, and the decision of the Minister is final.

Expenses
of appeal

(2) Any expenses occasioned by the appeal and second inspection as determined by the Minister shall be paid by the appellant. R.S.O. 1970, c. 47, s. 39.

Publications
to be
referred
to by
inspectors

40. Subject to this Act and the regulations, the publications of the Canadian Standards Association, of the American Standards Association and of the American Society of Mechani-

cal Engineers, as amended from time to time, shall be deemed to contain the rules that shall be referred to by the chief inspector and the inspectors in carrying out their duties under this Act in reference to the approval of designs, the fabrication, installation, inspection, testing, operation, and use of boilers, pressure vessels and plants. R.S.O. 1970, c. 47, s. 40.

41. Every person who contravenes any of the provisions of this Act or the regulations, or any direction or order given to him by an inspector, is guilty of an offence and on conviction is liable to a fine of not more than \$1,000 or to a term of imprisonment of not more than twelve months, or to both fine and imprisonment. R.S.O. 1970, c. 47, s. 41. Offences

42. The Lieutenant Governor in Council may make regulations, Regulations

- (a) prescribing the qualifications of persons who may be issued certificates of competency;
- (b) providing for the issue and renewal of certificates of competency and for the expiration, suspension and cancellation thereof;
- (c) providing for periodic inspections of any class of boilers or pressure vessels;
- (d) requiring the payment of fees for any official function under this Act and prescribing the amounts thereof;
- (e) providing for the payment by the fabricator or owner of a boiler or pressure vessel or the installer or owner of a plant of any or all of the expenses incurred by an inspector in making an inspection of it;
- (f) governing the design, fabrication, installation, operation, use, repair, maintenance and inspection of boilers, pressure vessels and plants or any class thereof;
- (g) prescribing the manner in which the design of a boiler, pressure vessel, plant, fitting or pipe shall be registered and numbered, and the manner in which it shall be marked or identified;
- (h) prescribing the drawings and specifications that shall accompany an application for approval and registration of the design of a boiler, pressure vessel, plant, fitting, or pipe and the information to be included therein;

- (i) prescribing the terms and conditions upon which an approved and registered design may be revised;
- (j) prescribing the manner by which the capacity of a boiler, pressure vessel or plant may be determined;
- (k) requiring the fabricator or his agent or officer in charge of fabrication to make a report in respect of the fabrication of a boiler or pressure vessel, and prescribing the information that shall be contained in the report and the manner in which it shall be verified;
- (l) requiring the installer or his agent or officer in charge of the installation of a plant to make a report in respect of the installation of the plant, and prescribing the information that shall be contained in the report and the manner in which it shall be verified;
- (m) prescribing the plans, drawings and information to be given in respect of the repair of a boiler, pressure vessel or plant;
- (n) prescribing the conditions under which a boiler, pressure vessel or plant may be mounted on a vehicle;
- (o) requiring every inspector and insurer to stamp or otherwise permanently identify, by a departmental number designated by the chief inspector, every boiler, pressure vessel or plant inspected by him that does not then have such a departmental number, and establishing such a system of identification and providing for and fixing the amount of the remuneration that shall be paid to insurers for so doing;
- (p) providing for the assigning of identifying symbols to welding operators, and requiring and providing for the imprinting of the symbol by the welding operator on welds made by him;
- (q) classifying refrigerants and governing the conditions under which they may be used;
- (r) prescribing forms and providing for their use;
- (s) respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act.
R.S.O. 1970, c. 47, s. 42.

CHAPTER 47

Boundaries Act

1. In this Act,

Interpre-
tation

(a) "Director" means the Director of Titles appointed under the *Land Titles Act*;

R.S.O. 1980,
c. 230

(b) "monument" means any device or object used to mark or witness a boundary;

(c) "parcel" means an area of land described in an instrument by which the title to an interest in land is or was established or an area of land shown on a plan and includes a public highway or any part thereof;

(d) "prescribed" means prescribed by the regulations made under this Act;

(e) "surveyor" means an Ontario land surveyor authorized to practise under the *Surveyors Act*. 1980, c. 51, s. 1.

R.S.O. 1980,
c. 492

2. The Minister of Consumer and Commercial Relations is responsible for the administration of this Act. 1980, c. 51, s. 2.

Adminis-
tration

3.—(1) Where doubt exists as to the true location on the ground of any boundary of a parcel, an application, in the prescribed form, may be made to the Director to confirm the true location of the boundary on the ground.

Application
for
confirmation
of
boundaries

(2) The Minister of Transportation and Communications, the council of a municipality or an authority having jurisdiction over a public highway may apply to the Director, in the prescribed form, to confirm the true location of the boundaries on the ground of a public highway under its jurisdiction.

Public
highways

(3) An application to the Director under subsection (1) may be made by,

Who may
apply

(a) the owner of an interest in the parcel;

(b) the council of the municipality in which the parcel is situate;

- (c) a Minister of the Crown;
- (d) the Surveyor General of Ontario;
- (e) the Surveyor General of Canada; or
- (f) with the consent of the owner of an interest in the parcel, a surveyor. 1980, c. 51, s. 3.

Contents
of
application

4.—(1) An application under section 3 shall be accompanied by,

- (a) a copy of an up-to-date plan of survey, signed by a surveyor indicating the location on the ground of the boundary or boundaries to be confirmed;
- (b) a copy of the field notes of the survey; and
- (c) such other information or material as is prescribed.

Further
materials

(2) The Director may at any time require an applicant to furnish such additional or other information or material as he specifies. 1980, c. 51, s. 4.

Where
Director
may
initiate
proceedings

5.—(1) The Director, of his own initiative, may initiate proceedings under this Act and may engage a surveyor to make a survey and plan of the parcel or any boundary thereof.

Costs

(2) Where the Director initiates proceedings under subsection (1), the costs of and incidental to the proceedings may, on an application to the Director of Land Registration, be paid out of The Land Titles Survey Fund referred to in subsection 59 (1) of the *Land Titles Act*, and subsections 59 (3) to (5) of that Act apply to an application under this subsection. 1980, c. 51, s. 5.

R.S.O. 1980,
c. 230

Costs of
municipality

6. Where an application under this Act has been made by or on behalf of the council of a municipality, the costs of and incidental to the application shall be borne by the municipality and, except where the purpose of the application is to confirm the location of the boundaries of a public highway, the costs may be recovered by the levy of a special rate of assessment on all parcels included in the application. 1980, c. 51, s. 6.

Notice of
application

7. The Director shall cause a notice of an application under this Act to be given in such manner and to such persons as he considers proper in the circumstances and the notice shall set out the purpose of the application and the time fixed for delivering objections to the Director and, where a copy of the plan is not included with the notice, the notice shall state the place where a copy of the plan may be inspected. 1980, c. 51, s. 7.

8.—(1) Any person desiring to object to the location of the boundary or boundaries to be confirmed, as shown on the plan of survey, shall deliver to the Director, by registered mail or by personal service within the time fixed by the notice of application, a written statement setting forth the nature and grounds of the objection. Objection

(2) Where a written statement of objection is received, the Director shall afford an opportunity for a hearing to determine the validity of the objection. Hearing

(3) Where the time specified in the notice of application has expired and no objection has been received, the Director, if he is satisfied by the application and the material filed in support thereof, may, without convening a hearing, confirm and, when the surveyor has complied with section 14, certify the location of the boundary or boundaries as shown on the plan of survey. Confirmation without hearing

(4) Where the Director is not satisfied by the application and the material filed in support thereof, he may convene a hearing and require any person he considers necessary to appear at the hearing to give evidence. Hearing where Director is not satisfied by application

(5) The applicant, any person who delivers a statement of objection under subsection (1) and such other persons as the Director may specify, are parties to the proceedings for the confirmation of the boundary or boundaries. Parties

(6) The Director shall cause a notice of hearing under this section to be given, in a manner prescribed by the regulations, to the parties and to such other persons as he may specify, setting forth the time, place and purpose of the hearing. 1980, c. 51, s. 8. Notice of hearing

9.—(1) Upon the hearing convened under section 8, the Director may dispose of any objection in such manner as he considers just and equitable under the circumstances and may, by order, confirm the location of the boundary or boundaries as shown on the plan of survey, or, if he thinks proper to do so, may order that the survey and plan be amended in such manner as he may direct, in which case he may confirm the location of the boundary or boundaries as shown on the plan as so amended. Hearing and confirmation

(2) The oral evidence taken before the Director at a hearing shall be recorded and, at the request of a party to the hearing, a copy of the recording shall be furnished to the party upon payment of the prescribed fee. 1980, c. 51, s. 9. Recording of evidence

10. The Director may order the removal of any monument that conflicts with any boundary confirmed under this Act. 1980, c. 51, s. 10. Monuments

Costs

11.—(1) An applicant under this Act is liable *prima facie* to pay all costs, charges and expenses of and incidental to the application.

Idem

(2) Upon the hearing convened under section 8, the Director may order costs to be paid by or to any person who is a party to a proceeding under this Act. 1980, c. 51, s. 11.

Appeal from
Director's
decision to
Divisional
Court

12.—(1) Any party aggrieved by an order of the Director made under subsection 9 (1) or under section 11 may appeal to the Divisional Court.

Power
of court

(2) The Divisional Court, on an appeal from an order of the Director, may,

(a) where the appeal is from an order under subsection 9 (1), decide the matter on the evidence before it or direct the trial of an issue or may dismiss the appeal or order that the survey and plan be amended and confirm the location of the boundary or boundaries as shown on the amended plan; and

(b) where the appeal is from an order as to costs under section 11, annul or, with or without modification, confirm the order.

Notice of
appeal

(3) Notice of an appeal under this section shall be filed by the appellant with the court and a copy of the notice shall be served upon the Director and the other parties to the proceedings before the Director within thirty days after the date of mailing of the order of the Director to the party appealing. 1980, c. 51, s. 12.

Certificate
of
confirmation

13.—(1) When the period of thirty days mentioned in subsection 12 (3) has elapsed and no appeal has been taken or after an appeal, if taken, has been disposed of and the surveyor has complied with section 14, the Director shall certify the confirmation of the location of the boundary or boundaries as shown on the plan of survey as confirmed by the Director or the court, as the case may be.

Effect of
confirmation

(2) When any boundary has been certified under subsection 8 (3) or under subsection (1) of this section, the certificate is conclusive that the application and every notice, proceeding and act that ought to have been made, given or done has been made, given or done in accordance with this Act. 1980, c. 51, s. 13.

Deposit of
plan and
field notes
R.S.O. 1980,
c. 493

14. Notwithstanding the *Surveys Act*, when the boundary or boundaries shown on the plan have been confirmed and no appeal has been taken or after an appeal, if taken, has been disposed of, the surveyor shall deposit the plan and original field notes of the survey with the Director. 1980, c. 51, s. 14.

15.—(1) The boundaries confirmed and certified by the Director and defined by the monuments shown on the plan under this Act shall, notwithstanding any other Act, be deemed to be the true boundaries of the parcel. Effect of certificate

(2) Nothing in this Act affects the establishment or re-establishment of lines under the *Surveys Act*, other than the boundaries confirmed and certified under this Act. 1980, c. 51, s. 15. Saving
R.S.O. 1980,
c. 493

16.—(1) When a boundary as shown on a plan of survey has been confirmed and certified under this Act, the Director shall cause the plan or a copy thereof to be registered in the proper land registry office. Registration of plan

(2) Upon receipt of the plan or a copy for registration, the land registrar shall register it and shall record it in the title register or abstract index for each parcel that adjoins a boundary that has been confirmed. Idem

(3) A plan registered under this section supersedes all corresponding portions of all former registered plans and descriptions. 1980, c. 51, s. 16. Effect of registration

17. A plan certified under this Act may be registered under the *Land Titles Act* or the *Registry Act*, as the case may be, without any approval under the *Planning Act*. 1980, c. 51, s. 17. Right to registration
R.S.O. 1980,
cc. 230, 445,
379

18.—(1) Upon the filing of evidence satisfactory to the Director and upon either giving such notice to interested persons as he considers appropriate, or *ex parte*, he may order the correction of any inconsistency, error or omission in a plan that has been certified and registered under this Act or a predecessor thereof. Corrections of errors and omissions

(2) No correction pursuant to this section shall affect the location of a boundary confirmed and certified under this Act or a predecessor thereof. 1980, c. 51, s. 18. Proviso

19. Where in the opinion of the Director the fees payable on an application under this Act are unduly excessive, having regard to all the circumstances, the Director may reduce the fees to such amount as he considers appropriate. 1980, c. 51, s. 19. Reduction of fees

20. This Act binds the Crown. 1980, c. 51, s. 20. Application to Crown

21. The Lieutenant Governor in Council may make regulations, Regulations

- (a) governing standards and procedures for surveys and plans made for the purposes of this Act;

- (b) prescribing the manner of making an application for confirmation of the location of boundaries and the material to be submitted with the application;
- (c) requiring any information in connection with any application, evidence or procedure to be verified by affidavit or declaration;
- (d) requiring the payment of fees and prescribing the amounts thereof;
- (e) prescribing one or more methods by which notice of a hearing under this Act may be given;
- (f) prescribing forms and providing for their use;
- (g) prescribing the manner of making an objection to the location of the boundary or boundaries as shown on the plan of survey and the material to be submitted with the objection;
- (h) prescribing administrative procedures for the purposes of this Act;
- (i) governing the manner of recording oral evidence and the manner of providing copies thereof;
- (j) prescribing the procedures to be followed by land registrars with respect to matters under this Act;
- (k) respecting costs and the taxation thereof; and
- (l) governing the correction of plans under section 18. 1980, c. 51, s. 21.

Transition

22.—(1) Notwithstanding section 23, where, prior to the 29th day of December, 1980, notice of an application has been given pursuant to subsection 9 (1) of *The Boundaries Act*, being chapter 48 of the Revised Statutes of Ontario, 1970, the application shall be continued as if that Act had not been repealed.

Idem

(2) Where, prior to the 29th day of December, 1980, the Director received an application under section 4 of *The Boundaries Act*, being chapter 48 of the Revised Statutes of Ontario, 1970, but no notice of the application has been given under subsection 9 (1) of that Act, the application shall be taken up and continued in conformity with this Act. 1980, c. 51, s. 22.

CHAPTER 48

Bread Sales Act

1. In this Act,

Interpre-
tation

(a) “bake shop” means a building, premises, workshop, room or place in which bread is made for sale or sold;

(b) “inspector” means an inspector appointed by a municipal council under this Act or a member of the Ontario Provincial Police Force. R.S.O. 1970, c. 49, s. 1.

2. The council of every city, town and village shall, and the council of every township may, appoint an inspector for the purpose of enforcing this Act. R.S.O. 1970, c. 49, s. 2.

3.—(1) Every person conducting a bake shop shall do so only under a licence to be issued by the municipality, and under regulations and conditions prescribed by by-law of the municipality, and no licence shall be issued until the medical officer of health gives a certificate that all regulations and conditions have been fully complied with.

(2) Any licence issued under this Act may be revoked by the council of the municipality.

(3) The fee for the licence shall not exceed \$1. R.S.O. 1970, c. 49, s. 3.

4.—(1) Except as provided in subsection (2), no person shall make bread for sale or sell or offer for sale bread except in loaves weighing 16, 24 or 48 ounces avoirdupois. R.S.O. 1970, c. 49, s. 4 (1).

(2) Small-bread may be made for sale, offered for sale and sold in any weight not exceeding 12 ounces avoirdupois. R.S.O. 1970, c. 49, s. 4 (2).

(3) On a day to be named by proclamation of the Lieutenant Governor,

(a) subsection (1) is amended by striking out “16, 24 or 48 ounces avoirdupois” in the third line and inserting in lieu thereof “450, 570, 675 or 900 grams”; and

Amendments
to subss. (1),
(2)

- (b) subsection (2) is amended by striking out "12 ounces avoirdupois" in the second line and inserting in lieu thereof "340 grams".

Scales and weights in bake shop

5. Every person making bread for sale shall keep in a conspicuous and convenient place in the bake shop scales and weights suitable for weighing bread, and shall weigh the bread offered for sale by him at the request of any person desiring to purchase the bread, and the inspector may use such scales at any time for the purpose of weighing bread found by him in the bake shop. R.S.O. 1970, c. 49, s. 5.

Offences

6. Every person who makes for sale or sells or offers for sale bread in contravention of the preceding sections, or who neglects to comply with section 5, is guilty of an offence. R.S.O. 1970, c. 49, s. 6.

Offence of using deleterious material

7.—(1) Every person who uses an adulterant or deleterious material in the making of bread for sale, or who knowingly sells or offers for sale any bread containing adulterant or deleterious material, is guilty of an offence, and is also liable as part of the costs of conviction to pay any expenses incurred in procuring an analysis of such bread.

Prima facie evidence of offence

(2) The keeping in any place where bread is made for sale of any adulterant or deleterious material that may be used in the making of bread is *prima facie* evidence of an offence against subsection (1). R.S.O. 1970, c. 49, s. 7.

Offence of interfering with inspector

8. Every person who refuses the inspector admittance to his bake shop or who interferes with the inspector in the performance of his duties is guilty of an offence. R.S.O. 1970, c. 49, s. 8.

Inspector's powers

9.—(1) An inspector may, at any time prior to the delivery to a purchaser, weigh any bread made or offered for sale, and may take away any bread and cause it to be tested for the purpose of determining if any adulterant or deleterious material has been used in the making thereof.

Destruction of adulterated bread

(2) If the bread is found to contain any such adulterant or deleterious material, the inspector shall destroy it.

Disposal of light-weight bread

(3) Where the inspector, upon weighing the bread, finds that it is of less than the prescribed weight, he shall seize and remove it and hand it over to some charitable institution. R.S.O. 1970, c. 49, s. 9.

Duties of inspector

10. It is the duty of the inspector to see that this Act is complied with, and he shall make a report quarterly to the

council showing the prosecutions taken and the quantity of bread seized or tested under this Act. R.S.O. 1970, c. 49, s. 10.

11. No person is liable to the penalties prescribed by this Act for making or offering for sale short-weight bread unless in the case of a manufacturer there are found at least ten short-weight loaves and in the case of a retailer there are found at least five short-weight loaves at one time, but all short-weight loaves are nevertheless liable to seizure as hereinbefore provided. R.S.O. 1970, c. 49, s. 11.

When
penalty
not to be
imposed

12. In any prosecution under this Act, the certificate of the analyst or assistant analyst of the Ministry of Health in writing stating the result of any test made by him under this Act and purporting to be signed by him is *prima facie* proof of the facts therein set forth and is receivable without proof of the signature or of the official character of the person who appears to have signed it. R.S.O. 1970, c. 49, s. 12; 1972, c. 1, s. 1.

Certificate
of analyst
as evidence

13. Every person guilty of an offence under this Act, on conviction, is liable to a fine of not less than \$10 and not more than \$100 for the first offence, and not less than \$25 and not more than \$200 for any subsequent offence. R.S.O. 1970, c. 49, s. 13.

Offence

CHAPTER 49

Bridges Act

1. This Act applies to,

Application
of Act

- (a) every river or stream or part thereof where its bed is vested in Her Majesty in right of Ontario; and
- (b) every place upon a river or stream where Her Majesty in right of Ontario, or any board or commission constituted under any Act of the Legislature, is a riparian owner. R.S.O. 1970, c. 50, s. 1.

2.—(1) No bridge or other structure shall be built, placed or constructed over or across any river or stream or part thereof, nor shall any bridge or other structure over or across any river or stream or part thereof be rebuilt, replaced or altered, where the cost of such building, placing, constructing, rebuilding, replacing or altering will exceed \$2,000, except with the approval of the Lieutenant Governor in Council. R.S.O. 1970, c. 50, s. 2 (1).

Approval of
Lieutenant
Governor in
Council

(2) The Lieutenant Governor in Council may approve of the building, placing, constructing, rebuilding, replacing or altering of any such bridge or other structure upon receiving,

Conditions
of approval

- (a) a petition praying for such approval;
- (b) proof that the plan of the proposed bridge or alterations and a surveyor's description of the site or proposed site have been deposited with the Minister of Transportation and Communications and in the proper land registry office; and
- (c) proof that notice of such application has been published for three successive weeks in *The Ontario Gazette* and in two newspapers having a general circulation in the locality where the site or proposed site of the bridge is located. R.S.O. 1970, c. 50, s. 2 (2); 1972, c. 1, s. 100 (2).

3.—(1) No person shall build, place, construct, operate or maintain any bridge the cost of which is in excess of \$2,000, unless such person is,

Who may
build
bridge

- (a) a person domiciled and ordinarily resident in Ontario;
- (b) a corporation incorporated under the laws of Canada;
- (c) a corporation incorporated under the laws of Ontario;
or

R.S.O. 1980,
c. 95

- (d) a corporation licensed under Part VIII of the *Corporations Act*.

Where
bridge
operated,
etc., con-
trary to
subs. (1)

(2) Where a bridge is built, placed, constructed, operated or maintained contrary to subsection (1), such bridge or so much thereof as is in Ontario shall, subject to any direction of the Lieutenant Governor in Council, be deemed to be the property of Her Majesty in right of Ontario. R.S.O. 1970, c. 50, s. 3.

Regulations

4. The Lieutenant Governor in Council may make regulations regarding the building, placing, constructing, rebuilding, replacing, alteration, operation, maintenance and control of bridges and other structures over or across any river, stream or part thereof including the exemption of any commission constituted under any Act of the Legislature or any railway company from any of the provisions of this Act. R.S.O. 1970, c. 50, s. 4.

CHAPTER 50

Brucellosis Act

1. In this Act,

Interpre-
tation

- (a) "brucellosis" means the infectious disease of cattle caused by the organism *brucella abortus*;
- (b) "calf" means a head of cattle under the age of one year;
- (c) "Director" means the Director of the Veterinary Services Branch of the Ministry of Agriculture and Food;
- (d) "inspector" means an inspector appointed under this Act;
- (e) "Minister" means the Minister of Agriculture and Food;
- (f) "owner" means a person owning or keeping one or more head of cattle, and includes a person in charge of premises where cattle are kept;
- (g) "regulations" means the regulations made under this Act;
- (h) "vaccinate" means vaccinate against brucellosis with vaccine in accordance with the regulations, and "vaccination" has a corresponding meaning;
- (i) "veterinarian" means a veterinarian appointed under this Act. R.S.O. 1970, c. 51, s. 1; 1972, c. 1, s. 1.

2. For the purposes of this Act, the Lieutenant Governor ^{Inspectors} in Council may appoint a chief inspector and one or more inspectors. R.S.O. 1970, c. 51, s. 2.

3.—(1) For the purposes of this Act, the Minister may ^{Appoint-} appoint any veterinarian registered under the *Veterinarians* ^{ment of} *Act* who makes application for appointment in the form ^{veterinarians} *Act* prescribed in the regulations. ^{R.S.O. 1980,} ^{c. 522}

Agreements
with
veterinarians

(2) Where the Minister appoints a veterinarian, he shall make an agreement with the veterinarian in the form prescribed in the regulations.

Veterinar-
ians'
assistants

(3) With the approval of the Director, a veterinarian may engage one or more persons to assist him in carrying out his duties under this Act, but the veterinarian is responsible for all acts of his assistants in carrying out such duties. R.S.O. 1970, c. 51, s. 3.

Prohibition
as to
vaccination

4. No person, other than a veterinarian or an assistant engaged by him, shall vaccinate a head of cattle. R.S.O. 1970, c. 51, s. 4.

Age limits
as to
vaccination

5. No person shall vaccinate or cause to be vaccinated a head of cattle, except a calf that is within the age limits for vaccination prescribed in the regulations. R.S.O. 1970, c. 51, s. 5.

Prescribed
vaccine
to be used

6. No veterinarian shall use or supply to any person for use in any vaccination any vaccine other than a vaccine prescribed in the regulations. R.S.O. 1970, c. 51, s. 6.

Notice of
calf to be
vaccinated

7.—(1) Every owner of a female calf that is within the age limits for vaccination prescribed in the regulations may notify a veterinarian that he has such a calf for vaccination.

Vaccination
after
notice

(2) Where a veterinarian receives a notice under subsection (1), he may vaccinate the calf on such terms and conditions as may be agreed upon between the veterinarian and the owner. R.S.O. 1970, c. 51, s. 7.

Certificate
of vaccina-
tion

8. Where a veterinarian vaccinates a calf, he shall complete in triplicate a certificate of vaccination in the form prescribed in the regulations and forthwith shall deliver or send by mail the original copy thereof to the owner and, within ten days after the end of the month in which the calf was vaccinated, shall deliver or send by mail two copies thereof to the Director. R.S.O. 1970, c. 51, s. 8.

Right of
entry

9.—(1) For the purposes of carrying out his duties under this Act, an inspector may at any time between sunrise and sunset enter any premises or building other than a dwelling house.

Certificate
of appoint-
ment

(2) The production by an inspector or a veterinarian of a certificate of his appointment purporting to be signed by the Minister is admissible in evidence as *prima facie* proof of his appointment without further proof of the signature or authority of the Minister. R.S.O. 1970, c. 51, s. 9.

10. No person shall hinder or obstruct an inspector or a veterinarian in the course of his duties or furnish him with false information, or refuse to furnish him with information. Obstruction of inspector or veterinarian
R.S.O. 1970, c. 51, s. 10.

11. Every person who contravenes any of the provisions of this Act or the regulations is guilty of an offence and on conviction is liable, for a first offence, to a fine of not more than \$25 and, for a subsequent offence, to a fine of not more than \$50 or to imprisonment for a term of not more than ten days, or to both. Offences
R.S.O. 1970, c. 51, s. 11.

12. The Lieutenant Governor in Council may make regulations, Regulations

- (a) prescribing the vaccine and the method to be used in vaccinating a calf;
- (b) prescribing the age limits for vaccination of a calf;
- (c) providing for a means of identification of a calf vaccinated under this Act, prescribing the manner in which such means of identification may be used, and governing the removal of such means of identification from a head of cattle;
- (d) prescribing forms and providing for their use;
- (e) respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act. R.S.O. 1970, c. 51, s. 12.

CHAPTER 51

Building Code Act

1.—(1) In this Act,

Interpre-
tation

- (a) “architect” means a member or licensee of the Ontario Association of Architects under the *Architects Act*; R.S.O. 1980, c. 26
- (b) “building” means a structure occupying an area greater than 100 square feet consisting of a wall, roof and floor, or any one or more of them, or a structural system serving the function thereof, including all the works, fixtures and service systems appurtenant thereto, and includes such other structures as are designated in the regulations, but does not include a structure used directly in the extraction of ore from a mine;
- (c) “building code” means the regulations made under section 19;
- (d) “chief official” means the chief building official appointed or constituted under section 3 or 4 and having jurisdiction for the enforcement of this Act;
- (e) “construct” means to do anything in the erection, installation or extension or material alteration or repair of a building and includes the installation of a building unit fabricated or moved from elsewhere, and “construction” has a corresponding meaning;
- (f) “demolition” means the doing of anything in the removal of a building or any material part thereof;
- (g) “Director” means the person appointed as Director under section 2;
- (h) “inspector” means an inspector appointed under section 3 or 4 and having jurisdiction for the enforcement of this Act;

(i) "Minister" means the Minister of Consumer and Commercial Relations;

(j) "municipality" means a city, town, village, township or improvement district or any other municipality having the power to make by-laws under section 46 of the *Planning Act*;

R.S.O. 1980,
c. 379

(k) "professional engineer" means a member or licensee of the Association of Professional Engineers of the Province of Ontario under the *Professional Engineers Act*;

R.S.O. 1980,
c. 394

(l) "regulations" means the regulations made under this Act;

(m) "unsafe" when used in respect of a building means,

(i) structurally inadequate or faulty for the purposes for which it is used, or

(ii) in a condition that could be hazardous to persons in the normal use of the building. 1974, c. 74, s. 1; 1978, c. 40, s. 1.

Amendment
to clause (1) (b)

(2) On a day to be named by proclamation of the Lieutenant Governor, clause (1) (b) is amended by striking out "100 square feet" in the second line and inserting in lieu thereof "ten square metres". 1978, c. 87, s. 12.

Administra-
tion

2.—(1) The Minister is responsible for the administration of this Act.

Director of
Building Code
Branch

(2) There shall be a Director of the Building Code Branch who shall be appointed by the Lieutenant Governor in Council. 1974, c. 74, s. 2.

Enforcement
by
municipality

3.—(1) The council of each municipality is responsible for the enforcement of this Act in the municipality.

Chief
building
official and
inspectors

(2) The council of each municipality shall appoint a chief building official and such inspectors as are necessary for the purposes of the enforcement of this Act in the areas in which the municipality has jurisdiction.

Agreements
for joint
enforcement

(3) The councils of two or more municipalities may enter into an agreement,

(a) providing for the joint enforcement of this Act within their respective municipalities;

(b) providing for the sharing of costs incurred in the enforcement of this Act within their respective municipalities; and

- (c) providing for the appointment of a chief building official and inspectors,

and, while the agreement is in effect, the municipalities have joint jurisdiction in the area comprising the municipalities.

(4) The council of a county and one or more local municipalities in the county may enter into an agreement for the enforcement by the county of this Act in such local municipalities and for charging such municipalities the whole or part of the cost thereof, and while the agreement is in effect the county may appoint a chief building official and such inspectors as are considered necessary and has jurisdiction for the enforcement of this Act in the municipalities that are parties to the agreement. County enforcement

(5) The clerk of the municipality or county shall issue a certificate of appointment bearing his signature or a facsimile thereof to the chief official and each inspector appointed by the municipality or county who shall produce the certificate upon request in the performance of his duties. Certificates of appointment

(6) The council of a municipality and the Crown in right of Ontario represented by the Minister may enter into an agreement providing for the enforcement of this Act in the municipality by Ontario subject to such payment in respect of the cost thereof as is provided for in the agreement, and, while the agreement is in effect, Ontario has jurisdiction for the enforcement of this Act in the municipality. 1974, c. 74, s. 3. Agreements for provincial enforcement

4.—(1) Ontario is responsible for the enforcement of this Act in territory without municipal organization. Enforcement by Ontario

(2) Such inspectors as are considered necessary for the enforcement of this Act in the parts of Ontario in which Ontario has jurisdiction therefor shall be appointed under the *Public Service Act*. Appointment of inspectors

R.S.O. 1980,
c. 418

(3) The Director shall be deemed to be the chief building official for the parts of Ontario in which Ontario has jurisdiction for the enforcement of this Act. Director, chief building official for Ontario

(4) The Deputy Minister of Consumer and Commercial Relations shall issue a certificate of appointment bearing his signature or a facsimile thereof to the Director and each inspector appointed under subsection (2) who shall produce the certificate upon request in the performance of his duties. Certificates of appointment

Agreements
for enforce-
ment by
municipality

(5) The council of a municipality adjacent to territory without municipal organization and the Crown in right of Ontario represented by the Minister may enter into an agreement providing for the enforcement of this Act by the municipality in such part of the territory without municipal organization and subject to such payment in respect of the cost thereof as is provided in the agreement and, while the agreement is in effect, the municipality has jurisdiction for the enforcement of this Act in the area designated in the agreement. 1974, c. 74, s. 4.

Building
permits

5.—(1) No person shall construct or demolish or cause to be constructed or demolished a building in a municipality unless a permit has been issued therefor by the chief official. 1978, c. 40, s. 2 (1).

By-laws and
regulations
for building
permits

(2) The council of a municipality may pass by-laws and the Lieutenant Governor in Council may make regulations applicable in the area in which the municipality or Ontario, respectively, has jurisdiction for the enforcement of this Act,

- (a) prescribing classes of permits for the purposes of subsection (1), including permits in respect of any stage of construction or demolition;
- (b) providing for applications for permits and requiring the applications to be accompanied by such plans, specifications, documents and other information as is prescribed;
- (c) requiring the payment of fees on applications for and issuance of permits and prescribing the amounts thereof;
- (d) providing for the refunding of fees under such circumstances as are prescribed;
- (e) prescribing the time within which notices required by the regulations must be given to the chief official or an inspector;
- (f) prescribing forms respecting permits and applications for permits and providing for their use;
- (g) requiring that a set of plans of buildings as constructed be filed with the chief official on completion of the construction of buildings of such class or classes as prescribed by the regulations. 1974, c. 74, s. 5 (2); 1978, c. 40, s. 2 (2).

6.—(1) The chief official shall issue a permit except ^{Issue of permits} where,

(a) the proposed building or the proposed construction or demolition will not comply with this Act or the building code or will contravene any other applicable law;

(b) the applicant is a builder as defined in the *Ontario New Home Warranties Plan Act* and is not registered under that Act; or ^{R.S.O. 1980, c. 350}

(c) the application therefor is incomplete or any fees due are unpaid. 1974, c. 74, s. 6 (1); 1978, c. 40, s. 3 (1).

(2) Drawings, plans and specifications accompanying applications for permits shall be made available to the Association of Professional Engineers of the Province of Ontario and the Ontario Association of Architects upon request for the purpose of determining whether the *Professional Engineers Act* or the *Architects Act* is being contravened. 1974, c. 74, s. 6 (2). ^{Disclosure of plans} ^{R.S.O. 1980, cc. 394, 26}

(3) No person shall make a material change or cause a material change to be made to a plan, specification, document or other information on the basis of which a permit was issued without notifying the chief official and filing details of such change with him for the purpose of obtaining his authorization. 1978, c. 40, s. 3 (2). ^{Notice of change}

(4) Subject to section 15, the chief official may revoke a permit, ^{Revocation of permits}

(a) where it was issued on mistaken or false information;

(b) where, after six months after its issuance, the construction or demolition in respect of which it was issued has not, in the opinion of the chief official, been seriously commenced; or

(c) where the construction or demolition of the building is, in the opinion of the chief official, substantially suspended or discontinued for a period of more than one year. 1974, c. 74, s. 6 (4).

(5) No person shall construct or cause to be constructed a building in a municipality except in accordance with the plans, specifications, documents and any other information on the basis of which a permit was issued or any changes thereto authorized by the chief official. 1978, c. 40, s. 3 (3). ^{No construction except in accordance with permit}

Conditions
for
occupation

7. Except as authorized by the regulations, no person shall occupy or use or permit to be occupied or used any building or part thereof newly erected or installed,

(a) until notice of the date of completion of the building or part thereof is given to the chief official;

(b) until,

(i) an inspection is made pursuant to such notice, or

(ii) ten days have elapsed after the service of the notice or after the date of completion, whichever occurs last; and

(c) until any order made by an inspector under section 8 is complied with. 1978, c. 40, s. 4.

Inspection

8.—(1) Subject to section 11, an inspector may, for the purpose of inspecting a building or site in respect of which a permit is issued or an application for a permit is made, enter in or upon any land or premises at any time without a warrant.

Order by
inspector

(2) Where an inspector finds that any provision of this Act or the building code is being contravened, he may give to the person whom he believes to be the contravener an order in writing directing compliance with such provision and may require the order to be carried out forthwith or within such time as he specifies.

Idem

(3) Where an inspector gives an order under this section, the order shall contain sufficient information to specify the nature of the contravention and its location.

Affixing
copy of order

(4) Where an inspector gives an order under this section, he may affix a copy thereof to the site of the construction or demolition, and no person, except an inspector or the chief official, shall remove such copy unless authorized by the inspector or the chief official.

Stop work
order

(5) Where an order of an inspector made under this section is not complied with within the time specified therein, or where no time is specified, within a reasonable time in the circumstances, the chief official may order that all or any part of the construction or demolition respecting the building cease and such order shall be served on such persons affected thereby as the chief official specifies and a copy thereof shall be posted on the site of the construction or demolition and no person except an inspector or the chief

official shall remove such copy unless authorized by an inspector or the chief official.

(6) Where an order to cease construction or demolition is made under subsection (5), no person shall perform any act in the construction or demolition of the building in respect of which the order is made other than such work as is necessary to carry out the order of the inspector made under subsection (2). 1974, c. 74, s. 8.

9.—(1) An inspector or chief official may issue an order prohibiting the covering or enclosing of any part of a building pending inspection and where such an order is issued, an inspection shall be made within a reasonable time after notice is given by the person to whom the order is issued that he is ready for the inspection.

(2) Where a chief official has reason to believe that any part of a building has not been constructed in compliance with this Act and such part has been covered or enclosed, contrary to an order made by an inspector or chief official under subsection (1), he may order any person responsible for the construction to uncover the part at his own expense for the purpose of an inspection.

(3) Subsections 8 (4), (5) and (6) apply to an order made under this section.

(4) Section 17 does not apply to a notice mentioned in subsection (1). 1978, c. 40, s. 5.

10.—(1) Subject to section 11, an inspector may enter in or upon any land or premises at any time without a warrant for the purpose of inspecting any building to determine whether such building is unsafe.

(2) Where an inspector finds that a building is unsafe, he may serve upon the assessed owner and each person apparently in possession of the building an order in writing setting out the reasons why the building is unsafe and the remedial steps that the inspector requires to be taken to render the building safe and may require the order to be carried out within such time as the inspector specifies in the order.

(3) Where an order of an inspector under subsection (2) is not complied with within the time specified therein, or where no time is specified, within a reasonable time in the circumstances, the chief official may by order prohibit the use or occupancy of the building and such order shall be served on the assessed owner and each person apparently in possession and such other persons affected thereby as

the chief official specifies and a copy thereof shall be posted on the building, and no person except an inspector or the chief official shall remove such copy unless authorized by an inspector or the chief official. 1974, c. 74, s. 9 (1-3).

Repairs
at expense
of owner

(4) Where the chief official has made an order under subsection (2) and considers it necessary for the safety of the public, he may cause the building to be renovated, repaired or demolished for the purpose of removing the unsafe condition or take such other action as he considers necessary for the protection of the public and, where the building is in a municipality, the cost of the renovation, repair, demolition or other action may be added by the clerk to the collector's roll and collected in like manner as municipal taxes. 1978, c. 40, s. 6.

Powers of
inspector

11.—(1) For the purposes of an inspection under section 8 or 10, the inspector may,

- (a) require the production of the drawings and specifications of a building or any part thereof, including any drawings prescribed by the regulations, for his inspection and may require information from any person concerning any matter related to a building or part thereof;
- (b) be accompanied by any person who has special or expert knowledge of any matter in relation to a building or part thereof;
- (c) alone or in conjunction with such other person or persons possessing special or expert knowledge, make such examinations, tests, inquiries, or, subject to subsections (2) and (3), take such samples or photographs as are necessary for the purposes of the inspection;
- (d) order any person responsible for the construction to take and supply at his own expense such tests and samples as are specified in the order.

Samples

(2) Where an inspector takes a sample under clause (1) (c), the inspector shall divide the sample into two parts and deliver one part to the person from whom the sample is taken, if the person so requests at the time the sample is taken and provides the necessary facilities.

Idem

(3) Where an inspector takes a sample under clause (1) (c) and has not divided the sample into two parts, a copy of any report on the sample shall be given to the person from whom the sample was taken.

(4) An inspector shall not enter any room or place actually being used as a dwelling without the consent of the occupier except under the authority of a search warrant issued under the *Provincial Offences Act*. 1974, c. 74, s. 10.

Entry to
dwellings

R.S.O. 1980,
c. 400

12.—(1) The chief official may review and amend or rescind an order made by an inspector under this Act.

Review by
chief official

(2) A chief official may exercise any of the powers or perform any of the duties of an inspector under this Act. 1974, c. 74, s. 11.

Chief official
may act as
inspector

13.—(1) The Building Code Commission is continued and shall be composed of such number of members as is determined by the Lieutenant Governor in Council.

Building Code
Commission
continued

(2) The Lieutenant Governor in Council shall appoint the members to the Commission, none of whom shall be persons in the public service of Ontario or of a municipality, and may designate one of the members as chairman and one or more of the members as vice-chairmen.

Appointment
of members

(3) The members of the Commission shall receive such remuneration and expenses as the Lieutenant Governor in Council may determine.

Remunera-
tion

(4) Three members of the Commission constitute a quorum. 1974, c. 74, s. 12.

Quorum

14.—(1) Where there is a dispute between an applicant for or holder of a permit or a person to whom an order is given and the chief official or an inspector in respect of the interpretation of the technical requirements of the building code or the sufficiency of compliance with such technical requirements, any party to the dispute may apply to the Building Code Commission for a hearing and determination of the question. 1978, c. 40, s. 7.

Hearings of
Commission

(2) Where an application is made to the Building Code Commission under subsection (1), the Commission shall appoint a time and place for the hearing and notice thereof shall be served upon the other parties to the dispute and the Commission shall hold the hearing and may, by order, determine the dispute and for such purposes may substitute its opinion for that of the inspector or chief official.

Powers of
Commission

(3) The decision of the Building Code Commission under this section is final.

Decision
final

(4) Members of the Building Code Commission holding a hearing shall not have taken part prior to the hearing in

Members
holding
hearing
not to have
taken part in
investiga-
tion, etc.

any investigation or consideration of the subject-matter of the hearing and shall not communicate directly or indirectly in relation to the subject-matter of the hearing with any person or with any party or his representative except upon notice to and opportunity for all parties to participate, but such members may seek legal or technical advice from an adviser independent from the parties and in such case the nature of the advice should be made known to the parties in order that they may make submissions.

Evidence

(5) The findings of fact of the Commission pursuant to a hearing shall be based exclusively on evidence admissible or matters that may be noticed under sections 15 and 16 of the *Statutory Powers Procedure Act*.

R.S.O. 1980,
c. 484

**Only
members
at hearing
to participate
in decisions**

(6) Members of the Commission shall not participate in a decision of the Commission pursuant to a hearing unless they were present throughout the hearing and heard the evidence and argument of the parties and, except with the consent of the parties, no decision of the Commission shall be given unless all members so present participate in the decision.

**Release of
documentary
evidence**

(7) Documents and things put in evidence at the hearing shall, upon the request of the person who produced them, be released to him by the Commission within a reasonable time after the matter in issue has been finally determined. 1974, c. 74, s. 13 (2-7).

**Hearings by
county court
judge**

15.—(1) Any person who considers himself aggrieved by an order given or decision made by an inspector or chief official under this Act or the regulations may, within twenty days after the order or decision is made, apply to the judge of the county or district court for a hearing and appeal.

**Effect of
application
on proceeding
before
Commission**

(2) Where an application is made under this section in respect of a matter in which a question is pending before the Building Code Commission, the proceeding before the Commission is terminated.

**Powers of
judge on
hearing**

(3) Where an application is made to a judge for a hearing under subsection (1), the judge shall appoint a time for and hold the hearing and may rescind or affirm the order or decision of the inspector or chief official or take such action as the judge considers the inspector or chief official ought to take in accordance with this Act and the regulations, and for such purposes the judge may substitute his opinion for that of the inspector or chief official.

**Reference to
Commission**

(4) A judge may refer a question respecting the interpretation of the technical requirements of the building code or the sufficiency of compliance with such technical requirements to the Building Code Commission for a hearing and

report to the judge and the procedure on the reference shall be the same as on an application under section 14.

(5) A judge to whom application is made for a hearing under subsection (1) may extend the time for making the application either before or after expiration of the time fixed therein, where he is satisfied that there are *prima facie* grounds for granting relief to the applicant pursuant to a hearing and that there are reasonable grounds for applying for the extension and may give such directions as he considers proper consequent upon the extension. Extension of time for hearing

(6) The judge may, upon application therefor which may be made *ex parte*, order that the order or decision appealed from be not stayed pending the outcome of the appeal but shall take effect immediately where, in his opinion, such action is necessary in the interest of public safety and would not destroy the subject-matter of the appeal. 1974, c. 74, s. 14. Lifting of stay

16.—(1) Any party to the hearing before the county or district court judge under section 15 may appeal from the decision of the judge to the Divisional Court in accordance with the rules of court. Appeal to Divisional Court

(2) The Minister is entitled to be heard, by counsel or otherwise, upon the argument of an appeal under this section. Minister entitled to be heard

(3) An appeal under this section may be made on any question that is not a question of fact alone and the court may confirm or alter the decision of the judge or direct the inspector or chief official to do any act he is authorized to do under this Act or may refer the matter back to the judge for reconsideration by the judge as the court considers proper and the court may substitute its opinion for that of the inspector or chief official or the judge. 1974, c. 74, s. 15. Powers of court on appeal

17. Except where otherwise provided, any notice required by this Act to be served may be served personally or by registered mail addressed to the person to whom notice is to be given or his agent for service at his latest known address and, where notice is served by registered mail, the service shall be deemed to have been made on the third day after the day of mailing unless the person to whom notice is given or his agent for service establishes that he did not, acting in good faith, through absence, accident, illness or other cause beyond his control receive the notice until a later date. 1974, c. 74, s. 16. Service of notice

18.—(1) The Building Materials Evaluation Commission is continued and shall be composed of such number of members as is determined by the Lieutenant Governor in Council. Building Materials Evaluation Commission continued

Appointment
of members

(2) The Lieutenant Governor in Council shall appoint the members to the Commission and may designate one of the members as chairman and one of the members as vice-chairman.

Remunera-
tion

(3) The members of the Commission shall receive such remuneration and expenses as the Lieutenant Governor in Council may determine.

Powers and
duties

(4) The Building Materials Evaluation Commission may,

- (a) examine and research or cause examination and research into materials, techniques and building design for construction;
- (b) upon application therefor, authorize the use of any innovative material, technique or building design in respect of any specified building or part thereof and the use of such material, technique or design within the authority given and the terms and conditions specified therein shall be deemed not to be in contravention of the building code; and
- (c) make recommendations to the Minister respecting changes in this Act or the regulations. 1974, c. 74, s. 17.

Regulations

19.—(1) The Lieutenant Governor in Council may make such regulations as are considered advisable or necessary for the purpose of establishing a building code for Ontario governing standards for the construction and demolition of buildings, including but without limiting the generality of the foregoing,

- (a) governing the manner of construction and types and quality of materials used therein;
- (b) governing the design of buildings and the use to which they may be put;
- (c) adopting by reference, in whole or in part, with such changes as the Lieutenant Governor in Council considers necessary, any code or standard and requiring compliance with any code or standard that is so adopted;
- (d) requiring any part of the design, construction or demolition of a building to be under the field review of an architect or professional engineer;
- (e) designating structures for the purposes of clause 1 (b);
- (f) prescribing classes of buildings for the purposes of clause 5 (2) (g);

- (g) designating organizations to test prefabricated building units to the standards prescribed by the building code and providing for the placing of the label of such organization on such units that conform to the standards;
- (h) requiring the approval of an inspector in respect of any method, matter or thing;
- (i) requiring the posting on buildings or sites of construction or demolition of such documents or information as is prescribed;
- (j) requiring such documents, information, records, drawings or specifications as are prescribed to be kept on the site of construction or demolition;
- (k) requiring notice to be given to the chief official or an inspector respecting any matter in the course of construction or demolition;
- (l) requiring notice to be given to the chief official respecting the change in prescribed classes of use made of a building;
- (m) requiring chief officials to transmit to the Director such returns and reports as are prescribed;
- (n) prescribing conditions under which a building or any part of a building may be occupied;
- (o) exempting any building or class thereof from compliance with this Act and the regulations or any provision thereof;
- (p) requiring the payment of fees in respect of applications to the Building Materials Evaluation Commission and prescribing the amounts thereof;
- (q) prescribing procedures of the Building Code Commission and the Building Materials Evaluation Commission;
- (r) prescribing forms and providing for their use. 1974, c. 74, s. 18 (1); 1978, c. 40, s. 8.

(2) Any regulation made under this section may be ^{Limitation of application} limited in its application territorially or to any class of building, construction or demolition. 1974, c. 74, s. 18 (2).

20.—(1) Where it appears to the Minister that there is or ^{Inquiries} may be a failure in construction or demolition standards

or in the enforcement of this Act or the building code, the Minister may designate a person to conduct an inquiry into such failure.

Powers on
inquiry

R.S.O. 1980,
c. 411

(2) For the purposes of an inquiry under subsection (1), the person conducting the inquiry has the powers of a commission under Part II of the *Public Inquiries Act*, which Part applies to such investigation as if it were an inquiry under that Act. 1974, c. 74, s. 19.

Immunity
from actions

21.—(1) No action or other proceeding for damages lies or shall be instituted against the Director or any member of the Building Code Commission or Building Materials Evaluation Commission or anyone acting under the authority of the Director, Building Code Commission or Building Materials Evaluation Commission or any person conducting an inquiry under section 20 for any act done in good faith in the execution or intended execution of his duty or for any alleged neglect or default in the execution in good faith of his duty.

Idem

(2) No action or other proceedings for damages lies or shall be instituted against an inspector or chief official for an act or omission by him in good faith in the execution or intended execution of any power or duty under this Act or the regulations.

Liability of
Crown and
municipality

(3) Subsections (1) and (2) do not relieve the Crown or a municipal corporation of liability in respect of a tort committed by an inspector or a chief official to which either would otherwise be subject and the Crown or municipal corporation is liable for any such tort as if subsections (1) and (2) were not enacted. 1974, c. 74, s. 20.

Obstruction
of
inspector

22.—(1) No person shall hinder, obstruct, molest or interfere with or attempt to hinder, obstruct, molest or interfere with a chief official or inspector in the exercise of a power or the performance of a duty under this Act.

Assistance of
inspector

(2) Every person shall furnish all necessary means in his power to facilitate any entry, inspection, examination, testing or inquiry by an inspector or chief official in the exercise of his powers or duties under this Act.

Refusal to
produce

(3) No person shall neglect or refuse to produce any drawings and specifications as required by an inspector under clauses 11 (1) (a) and (c).

False
information,
etc.

(4) No person shall furnish an inspector or chief official with false information or neglect or refuse to furnish

information required by an inspector or chief official in the exercise of his duties under this Act. 1974, c. 74, s. 21.

23.—(1) A chief official, inspector, person who, at the request of an inspector, accompanies an inspector, or person who, at the request of an inspector, makes an examination, test or inquiry or takes samples shall not publish, disclose or communicate to any person any information, material, statement or result of any test, acquired, furnished, obtained, made or received under the powers conferred under this Act and the regulations except for the purposes of carrying out his duties under this Act or the regulations. Information confidential

(2) No report of a chief official, inspector, person who, at the request of an inspector, accompanies an inspector, or person who, at the request of an inspector, makes an examination, test or inquiry or takes samples shall be communicated, disclosed or published to any person except for the purposes of carrying out his duties under this Act or the regulations. Idem

(3) No chief official, inspector, person who, at the request of an inspector, accompanies an inspector or person who makes an examination, test or inquiry or takes samples at the request of an inspector is a compellable witness in a civil suit or proceeding respecting any information, material, statement or test acquired, furnished, obtained, made or received under the powers conferred under this Act. Compellability in civil suit

(4) The Director may communicate or allow to be communicated, disclosed or published information, material or statements or the result of a test acquired, furnished, obtained, made or received under the powers conferred by this Act and the regulations. Power of Director to disclose

(5) No person to whom information is communicated under this section or section 11 or 20 shall divulge the name of the informant to any person except for the purposes of this Act. 1974, c. 74, s. 22. Informant confidential

24.—(1) Every person who,

Offences

(a) knowingly furnishes false information in any application under this Act or in any statement or return required to be furnished under this Act or the regulations;

(b) fails to comply with any order, direction or other requirement made under this Act; or

- (c) contravenes any provision of this Act or the regulations or of any by-law passed under the authority of this Act,

and every director or officer of a corporation who knowingly concurs in such furnishing, failure or contravention is guilty of an offence and on conviction is liable to a fine of not more than \$2,000 or to imprisonment for a term of not more than one year, or to both. 1974, c. 74, s. 23 (1); 1978, c. 40, s. 9 (1).

Corporations

(2) Where a corporation is convicted of an offence under subsection (1), the maximum penalty that may be imposed upon the corporation is \$10,000 and not as provided therein.

Continuing offence

(3) Every person who fails to comply with an order made by a chief official under subsection 8 (5) or 10 (3) is guilty of an offence and on conviction, in addition to the penalties mentioned in subsections (1) and (2), is liable to a fine of not more than \$100 per day for every day upon which the offence continued after such order was given. 1974, c. 74, s. 23 (2, 3).

Limitation period

(4) No proceeding under this section shall be commenced more than one year after the time when the subject-matter of the proceeding arose.

Fines paid to municipality

R.S.O. 1980,
cc. 6, 162

(5) Where a fine is imposed under this section, the proceeds of the fine shall be paid to the treasurer of the municipality within which the offence giving rise to the fine was committed, and section 4 of the *Administration of Justice Act* and section 4 of the *Fines and Forfeitures Act* do not apply in respect of any such fine. 1978, c. 40, s. 9 (2).

Proof of order

25.—(1) In any prosecution for an offence under this Act, a copy of a direction or order purporting to have been made under this Act or the regulations and purporting to have been signed by the person authorized by this Act to make the direction or order is *prima facie* proof of the direction or order without proof of the signature or authority of the person by whom it purports to be signed.

Proof of matters of record

(2) A statement as to any matter of record in an office of the chief official purporting to be certified by the chief official is, without proof of the office or signature of the chief official, receivable in evidence as *prima facie* proof of the facts stated therein for all purposes in any action, proceeding or prosecution. 1974, c. 74, s. 24.

Restraining order

26.—(1) Where it appears to a chief official that any person does not comply with any provision of this Act, the

regulations or an order made under this Act, notwithstanding the imposition of any penalty in respect of such non-compliance and in addition to any other rights he may have, the chief official may apply to a judge of the High Court for an order directing such person to comply with such provision, and upon the application, the judge may make such order or such other order as the judge thinks fit.

(2) An appeal lies to the Divisional Court from an order made under subsection (1). 1974, c. 74, s. 25. Appeal

27. Section 46 of the *Planning Act* is subject to this Act and the building code made under section 19 of this Act ^{Municipal by-laws superseded} supersedes all municipal by-laws respecting the construction ^{R.S.O. 1980, c. 379} or demolition of buildings as defined in section 1. 1974, c. 74, s. 26.

CHAPTER 52

Bulk Sales Act

1. In this Act,

Interpre-
tation

- (a) “buyer” means a person who acquires stock in bulk ;
- (b) “court” means the county or district court of the county or district in which the seller’s stock or a substantial part thereof is located or the seller’s business or trade or a substantial part thereof is carried on at the time of the sale in bulk ;
- (c) “creditor” means any creditor, including an unsecured trade creditor and a secured trade creditor ;
- (d) “judge” means a judge of the court ;
- (e) “proceeds of the sale” includes the purchase price and any security therefor or for any part thereof, and any other consideration payable to the seller or passing from the buyer to the seller on a sale in bulk, and the moneys realized by a trustee under a security or by the sale or other disposition of any property coming into his hands as the consideration or part of the consideration for the sale, less the proper and reasonable costs of the seller’s solicitor for completing the sale ;
- (f) “sale”, whether used alone or in the expression “sale in bulk”, includes a transfer, conveyance, barter or exchange, but does not include a pledge, charge or mortgage ;
- (g) “sale in bulk” means a sale of stock in bulk out of the usual course of business or trade of the seller ;
- (h) “secured trade creditor” means a person to whom a seller is indebted, whether or not the debt is due,
 - (i) for stock, money or services furnished for the purpose of enabling the seller to carry on business, or

- (ii) for rental of premises in or from which the seller carries on business,

and who holds security or is entitled to a preference in respect of his claim;

- (i) "seller" means a person who sells stock in bulk;

- (j) "stock" means,

- (i) goods, wares, merchandise or chattels ordinarily the subject of trade and commerce,

- (ii) the goods, wares, merchandise or chattels in which a person trades or that he produces or that are the output of a business, or

- (iii) the fixtures, goods and chattels with which a person carries on a trade or business;

- (k) "stock in bulk" means stock or part thereof that is the subject of a sale in bulk and all other property, real or personal, that together with stock is the subject of a sale in bulk;

- (l) "unsecured trade creditor" means a person to whom a seller is indebted for stock, money or services furnished for the purpose of enabling the seller to carry on a business, whether or not the debt is due, and who holds no security or who is entitled to no preference in respect of his claim. R.S.O. 1970, c. 52, s. 1.

**Application
of Act**

R.S.O. 1980,
c. 262

R.S.C. 1970,
c. B-3

2. This Act applies to every sale in bulk except a sale in bulk by an executor, an administrator, a committee of the estate of a mentally incompetent or incapable person, the Public Trustee as committee under the *Mental Health Act* or an order made under that Act, a creditor realizing upon his security, a receiver, an assignee or trustee for the benefit of creditors, a trustee under the *Bankruptcy Act* (Canada), a liquidator or official receiver, or a public official acting under judicial process. R.S.O. 1970, c. 52, s. 2.

**Judicial
exemption**

3.—(1) A seller may apply to a judge for an order exempting a sale in bulk from the application of this Act, and the judge, if he is satisfied, on the affidavit of the seller and any other evidence, that the sale is advantageous to the seller and will not impair his ability to pay his creditors in full, may make the order, and thereafter this Act, except section 7, does not apply to the sale.

(2) The judge may require notice of the application for the order to be given to the creditors of the seller or such of them as he directs, and he may in the order impose such terms and give such directions with respect to the disposition of the proceeds of the sale or otherwise as he considers appropriate. R.S.O. 1970, c. 52, s. 3.

Notice,
terms and
directions

4.—(1) The buyer, before paying or delivering to the seller any part of the proceeds of the sale, other than the part mentioned in section 6, shall demand of and receive from the seller, and the seller shall deliver to the buyer, a statement verified by the affidavit of the seller in Form 1.

Statement
of
creditors

(2) The statement shall show the names and addresses of the unsecured trade creditors and the secured trade creditors of the seller and the amount of the indebtedness or liability due, owing, payable, or accruing due, or to become due and payable, by the seller to each of them, and, with respect to the claims of the secured trade creditors, the nature of their security and whether their claims are due or, in the event of sale, become due on the date fixed for the completion of the sale. R.S.O. 1970, c. 52, s. 4.

Contents of
statement

5. From and after the delivery of the statement mentioned in section 4, no preference or priority is obtainable by any creditor of the seller in respect of the stock in bulk, or the proceeds of the sale thereof, by attachment, garnishment proceedings, contract or otherwise. R.S.O. 1970, c. 52, s. 5.

No
preference
or priority

6. The buyer may, before he receives the statement mentioned in section 4, pay to the seller on account of the purchase price a sum not exceeding 10 per cent of the purchase price which shall form part of the proceeds of sale and which the seller shall hold in trust,

Part
payment

(a) for the buyer until completion of the sale, or, if the sale is not completed and the buyer becomes entitled to repayment of it, until it is repaid to the buyer; or

(b) where the sale is completed and a trustee has been appointed, for the trustee until the seller complies with clause 10 (b). R.S.O. 1970, c. 52, s. 6.

7. Any creditor of a seller is entitled to demand of the seller or the buyer, in which case the seller or the buyer, as the case may be, shall forthwith deliver to the creditor, particulars in writing of the sale in bulk. R.S.O. 1970, c. 52, s. 7.

Particulars

Completion
of sale

8.—(1) Where the buyer has received the statement mentioned in section 4, he may pay or deliver the proceeds of the sale to the seller and thereupon acquire the property of the seller in the stock in bulk,

- (a) if the statement mentioned in section 4 discloses that the claims of the unsecured trade creditors of the seller do not exceed a total of \$2,500 and that the claims of the secured trade creditors of the seller do not exceed a total of \$2,500 and the buyer has no notice that the claims of the unsecured trade creditors of the seller exceed a total of \$2,500 and that the claims of the secured trade creditors of the seller exceed a total of \$2,500; or
- (b) if the seller delivers a statement verified by his affidavit showing that the claims of all unsecured trade creditors and all secured trade creditors of the seller of which the buyer has notice have been paid in full; or
- (c) if adequate provision has been made for the immediate payment in full of all claims of the unsecured trade creditors of the seller of which the buyer has notice and of all claims of secured trade creditors of the seller that are or become due and payable upon completion of the sale of which the buyer has notice, so long as their claims are paid in full forthwith after completion of the sale, but where any such creditor has delivered a waiver in Form 2 no provision need be made for the immediate payment of his claim.

Idem

(2) Where the buyer has received the statement mentioned in section 4, he may pay or deliver the proceeds of the sale to the trustee and thereupon acquire the property of the seller in the stock in bulk, if the seller delivers to the buyer,

- (a) the consent to the sale in Form 3 of unsecured trade creditors of the seller representing not less than 60 per cent in number and amount of the claims that exceed \$50 of all the unsecured trade creditors of the seller of whose claims the buyer has notice; and
- (b) an affidavit of the seller deposing that he delivered or caused to be delivered to all of his unsecured trade creditors and secured trade creditors personally or by registered mail addressed to them at their last known addresses at least fourteen days before the date fixed for the completion of the sale copies

of the contract of the sale in bulk, the statement mentioned in subsection 4 (1), and the statement of affairs in Form 4, and deposing that the affairs of the seller as disclosed in the statement of affairs have not materially changed since it was made.

(3) Duplicate originals of the documents mentioned in clause (2) ^{Documents to be} shall be attached as exhibits to the affidavit mentioned there- ^{exhibited} in. R.S.O. 1970, c. 52, s. 8.

9.—(1) Where a sale in bulk is being completed under subsection 8 (2), a trustee shall be appointed, ^{Appointment of trustee}

(a) by the seller with the consent in Form 3 of his unsecured trade creditors representing not less than 60 per cent in number and amount of the claims that exceed \$50 of the unsecured trade creditors as shown by the statement mentioned in section 4; or

(b) by a judge upon the application of any person interested where the unsecured trade creditors of the seller representing not less than 60 per cent in number and amount of the claims that exceed \$50 as shown by the statement mentioned in section 4 have consented to the sale in bulk but have not consented to the appointment of a trustee, or where the trustee appointed under clause (a) is unable or unwilling to act.

(2) Every trustee shall forthwith give security in cash or ^{Security} by bond of a guarantee company satisfactory to a judge for the due accounting for all property received by him as trustee and for the due and faithful performance of his duties, and the security shall be deposited with the clerk of the court and shall be given in favour of the creditors generally and may be enforced by any succeeding trustee or by any one of the creditors on behalf of all by direction of the judge and the amount of the security may be increased or decreased by the judge at any time. R.S.O. 1970, c. 52, s. 9.

10. Where a sale in bulk is completed under subsection 8 (2), ^{When proceeds of sale to be paid over to trustee}

(a) the seller shall deliver to the trustee a statement verified by the affidavit of the seller showing the names and addresses of all creditors of the seller and the amount of the indebtedness or liability due, owing, payable or accruing due, or to become due and payable by the seller to each of them; and

- (b) the seller shall pay to the trustee all moneys received by him from the buyer on account of the purchase price under section 6; and
- (c) the buyer shall pay or deliver the balance of the proceeds of the sale to the trustee. R.S.O. 1970, c. 52, s. 10.

Filings on
completion
of sale

11.—(1) Within five days after the completion of a sale in bulk, the buyer shall file in the office of the clerk of the court an affidavit setting out the particulars of the sale, including the subject-matter thereof and the name and address of the trustee, if any, and exhibiting duplicate originals of the statement mentioned in section 4, the statement, if any, mentioned in clause 8 (1) (b), the waivers, if any, mentioned in clause 8 (1) (c) and the consent and affidavit, if any, mentioned in subsection 8 (2).

Fees

(2) For services rendered in connection with the filings required by subsection (1), the clerk of the court is entitled to the following fees:

1. For filing affidavit.....	\$1.00
2. For a search.....	.50
3. For a certificate of filing of affidavit.....	.50
4. For copies of affidavit and certifying the same, for every 100 words20
5. For production and inspection of affidavit ..	.10

Failure
to file

(3) If the buyer fails to comply with subsection (1), a judge may at any time,

- (a) upon the application of the trustee or a creditor, order the buyer to comply therewith; or
- (b) upon the application of the buyer, extend the time for compliance therewith; or
- (c) upon the application of the buyer after the lapse of one year from the date of the completion of the sale in bulk and upon being satisfied that the claims of all unsecured trade creditors and secured trade creditors of the seller existing at the time of the completion of the sale have been paid in full and

that no action or proceeding is pending to set aside the sale or to have the sale declared void and that the application is made in good faith and not for any improper purpose, make an order dispensing with compliance therewith. R.S.O. 1970, c. 52, s. 11.

12.—(1) Where the proceeds of the sale are paid or delivered to a trustee under section 10, the trustee is a trustee for the general benefit of the creditors of the seller and he shall distribute the proceeds of the sale among the creditors of the seller, and, in making the distribution, all creditors' claims shall be proved in like manner and are subject to like contestation before a judge and, subject to section 13, are entitled to like priorities as in the case of a distribution under the *Bankruptcy Act* (Canada), as amended or re-enacted from time to time, and shall be determined as of the date of the completion of the sale.

Distribution
of proceeds
of sale

R.S.C. 1970,
c. B-3

(2) Before making the distribution, the trustee shall cause a notice thereof to be published in at least two issues of a newspaper having general circulation in the locality in which the stock in bulk was situated at the time of the sale, and the trustee shall not make the distribution until at least fourteen days after the last of such publications.

Notice

(3) Upon notice to the trustee within thirty days after the date of the filing of the documents mentioned in section 11 that a petition for a receiving order against the seller has been filed, the trustee shall not distribute the proceeds of the sale until the final disposition of the petition and, where a receiving order is made pursuant to the petition, the trustee shall pay the proceeds of the sale, after deducting therefrom his fee and disbursements, to the trustee appointed by the receiving order. R.S.O. 1970, c. 52, s. 12.

Petition
for
receiving
order

13. Nothing in this Act affects the rights of any municipality under the *Assessment Act* or Part XXII of the *Municipal Act*. R.S.O. 1970, c. 52, s. 13.

Municipal
rights
preserved
R.S.O. 1980,
cc. 31, 302

14.—(1) Subject to subsection (3), the fee of the trustee shall be as follows:

Fee of
trustee

- 1. Where the proceeds of the sale do not exceed \$5,000 \$ 250
- 2. Where the proceeds of the sale exceed \$5,000 but do not exceed \$25,000 \$ 250
plus 3 per cent of the amount by which the proceeds of the sale exceed \$5,000

3. Where the proceeds of the sale exceed \$25,000 but do not exceed \$100,000 \$ 850 plus 2 per cent of the amount by which the proceeds of the sale exceed \$25,000
4. Where the proceeds of the sale exceed \$100,000 \$ 2,350 plus 1 per cent of the amount by which the proceeds of the sale exceed \$100,000

Idem

(2) In the absence of an arrangement between the seller and the trustee to the contrary, the fee, together with any disbursements made by the trustee, shall be deducted by him from the moneys to be paid to the creditors.

Idem

(3) Where the proceeds of the sale exceed the amount required to pay in full all indebtedness of the seller to his creditors, the fee of the trustee together with any disbursement made by the trustee shall be deducted by him from the excess proceeds to the extent of that excess, and any sum remaining unpaid thereafter shall be paid as provided in subsection (1). R.S.O. 1970, c. 52, s. 14.

Who may
make
affidavits

15.—(1) Any affidavit required to be made under this Act by a seller,

- (a) if the seller is a partnership, shall be made severally by all of the partners; or
- (b) if the seller is a corporation, shall be made by an officer or director of the corporation and shall state that the deponent has a personal knowledge of the facts deposed to.

Idem

(2) Upon the application of a seller and upon being satisfied that good and sufficient cause exists that any affidavit required to be made under this Act should be made otherwise than under subsection (1), a judge may order accordingly. R.S.O. 1970, c. 52, s. 15.

Effect of
buyer
failing to
comply
with Act

16.—(1) A sale in bulk is voidable unless the buyer has complied with this Act.

Personal
liability
of buyer

(2) If a sale in bulk has been set aside or declared void and the buyer has received or taken possession of the stock in bulk, he is personally liable to account to the creditors of the seller for the value thereof, including all moneys, security and property realized or taken by him from, out of, or on account of, the sale or other disposition by him of the stock in bulk. R.S.O. 1970, c. 52, s. 16.

17.—(1) An action or proceeding to set aside or have declared void a sale in bulk may be brought or taken by a creditor of the seller, and, if the seller is adjudged bankrupt, by the trustee of his estate. ^{Who may bring action}

(2) No action shall be brought or proceeding taken in respect of real property included in a sale in bulk if the real property has been sold, transferred, charged or mortgaged to a *bona fide* purchaser, transferee, chargee or mortgagee for valuable consideration without actual notice of non-compliance with the Act by the buyer. R.S.O. 1970, c. 52, s. 17. ^{Where no right of action}

18. In an action or proceeding in which a sale in bulk is attacked or comes in question, whether directly or indirectly, the burden of proof that this Act has been complied with is upon the person upholding the sale in bulk. R.S.O. 1970, c. 52, s. 18. ^{Burden of proof}

19. No action shall be brought or proceeding taken to set aside or have declared void a sale in bulk for failure to comply with this Act unless the action is brought or the proceeding is taken either before the documents are filed under section 11 or within six months after the date on which the documents were filed under section 11. R.S.O. 1970, c. 52, s. 19. ^{Limitation of action}

FORM 1

(Section 4 (1))

Bulk Sales Act

STATEMENT AS TO SELLER'S CREDITORS

Statement showing names and addresses of all unsecured trade creditors and secured trade creditors of

of the of in the of
and the amount of the indebtedness or liability due, owing, payable or accruing due or to become due by him to each of them.

UNSECURED TRADE CREDITORS

Name of Creditor	Address	Amount

SECURED TRADE CREDITORS

Name of Creditor	Address	Amount	Nature of Security	Due or becoming due on the date fixed for the completion of the sale

I, of the of in the of make oath and say:

1. That the foregoing statement is a true and correct statement

- (a) of the names and addresses of all the unsecured trade creditors of the said and of the amount of the indebtedness or liability due, owing, payable or accruing due or to become due and payable by the said to each of the said unsecured trade creditors; and
- (b) of the names and addresses of all the secured trade creditors of the said and of the amount of the indebtedness or liability due, owing, payable or accruing due or to become due and payable by the said to each of the said secured trade creditors, the nature of their security, and whether they are or in the event of sale will become due and payable on the date fixed for the completion of the sale.

(and, if the seller is a corporation)

2. That I am of the Corporation, and have personal knowledge of the facts herein deposed to.

SWORN before me, etc.

FORM 2

(Section 8 (1) (c))

Bulk Sales Act

WAIVER

In the matter of the sale in bulk

BETWEEN

Seller

— and —

Buyer

I,....., of the.....of.....,
in the.....of....., a secured
an unsecured trade
creditor of the above-named seller, hereby waive the provisions of the *Bulk Sales Act*
that require that adequate provision be made for the immediate payment in full of
my claim forthwith after completion of the sale, and I hereby acknowledge and agree that
the buyer may pay or deliver the proceeds of the sale to the seller and thereupon
acquire the property of the seller in the stock without making provision for the im-
mediate payment of my claim and that any right to recover payment of my claim
may, unless otherwise agreed, be asserted against the seller only.

DATED at.....this.....day of....., 19...

Witness:

FORM 3

(Sections 8 (2) (a) and 9 (1) (a))

Bulk Sales Act

CONSENT

In the matter of the sale in bulk

BETWEEN:

Seller

— and —

Buyer

I,, of the of

in the of, an unsecured trade creditor of the
above-named seller, hereby acknowledge and agree;

1. that I have received,

(a) a copy of the statement showing the names and addresses of the unsecured trade creditors and the amount of the indebtedness or liability due, owing, payable or accruing due or to become due and payable by the seller, and showing the names and addresses of his secured trade creditors, the nature of their security and whether their claims are or, in the event of sale, become due on the date fixed for completion of the sale, and the amount of the indebtedness or liability due, or owing, payable or accruing due or to become due and payable by the seller;

(b) a statement of the affairs of the seller; and

(c) a copy of the contract of the sale in bulk;

2. that I consent to the sale; and

3. that I consent to the appointment of as trustee.

DATED at, this day of, 19...

Witness:

FORM 4

(Section 8 (2) (b))

Bulk Sales Act

STATEMENT OF AFFAIRS

Assets included in the Sale in Bulk

(a) Amount of the proceeds of the sale \$.....

Assets not included in the Sale in Bulk

(b) Stock-in-trade at cost price not exceeding fair value \$.....

(c) Trade fixtures, fittings, utensils, etc. \$.....

(d) Book debts—Good \$.....

Doubtful \$.....

Bad \$.....

Estimated to produce..... \$.....

(e) Bills of exchange, promissory notes, etc \$.....

(f) Cash in bank..... \$.....

(g) Cash on hand..... \$.....

(h) Livestock \$.....

(i) Machinery, equipment, and plant..... \$.....

(j) Real estate \$.....

(k) Estimated value of securities in hands of secured
creditors \$.....

(l) Furniture \$.....

(m) Life insurance policies \$.....

(n) Stocks and bonds \$.....

(o) Interest in estates \$.....

(p) Other property, viz..... \$.....

Total \$.....

Liabilities

(q) Unsecured trade creditors \$.....

(r) Secured trade creditors..... \$.....

(s) Preferred creditors \$.....

(t) All other liabilities, except contingent liabilities set
out below \$.....

Total \$.....

Surplus or deficiency.....\$.....

Contingent Liabilities

(u) Liabilities under endorsements and guarantees \$.....

(v) All other contingent liabilities..... \$.....

Total \$.....

I,....., of the.....of

in the.....of.....,, make oath
and say that the above statement is to the best of my knowledge and belief a full,
true and complete statement of my affairs on the.....day of.....
19...., (which date shall not be more than 30 days before the date of the affidavit) and fully
discloses all my property of every description.

SWORN before me, etc.

CHAPTER 53

Bull Owners' Liability Act

1. The owner of any bull found off his owner's premises, not confined or led by an attendant, is guilty of an offence and on conviction is liable to a penalty of \$25. R.S.O. 1950, c. 294, s. 1.

Penalty for
permitting
bull to run
at large

2. Where a cow is got in calf by a bull running at large, the owner of the cow is entitled to recover the full amount of actual damage or loss sustained by him, from the owner of the bull. R.S.O. 1950, c. 294, s. 2.

Damages
recoverable
where cow
got in calf

CHAPTER 54

Business Corporations Act**1.—(1)** In this Act,Interpre-
tation

1. “affiliate” means an affiliated body corporate within the meaning of subsection (4);
2. “articles of incorporation” or “articles” means the original or restated articles of incorporation, articles of amalgamation, letters patent, supplementary letters patent, a special Act and any other instrument by which a corporation is incorporated, and includes any amendments thereto;
3. “authorized capital” means the authorized capital as determined under section 23;
4. “basic earnings per share” means the amount of income attributable to each outstanding share that carries as an incident of ownership the right to participate in earnings to an unlimited degree, calculated in the manner prescribed by the regulations;
5. “body corporate” means any body corporate with or without share capital and whether or not it is a corporation to which this Act applies;
6. “certificate of incorporation” includes letters patent, a special Act or any other instrument by which a corporation is incorporated;
7. “certified copy” means,
 - i. in relation to a document of a corporation, a copy of the document certified to be a true copy under the seal of the corporation and signed by an officer thereof,
 - ii. in relation to a document issued by a court, a copy of the document certified to be a true copy under the seal of the court and signed by the registrar or clerk thereof,

- iii. in relation to a document in the custody of the Ministry, a copy of the document certified to be a true copy under the seal of the Minister and signed by the Minister or by such officer of the Ministry as is designated by the regulations;
- 8. "Commission" means the Ontario Securities Commission;
- 9. "corporation" means a body corporate with share capital to which this Act applies;
- 10. "corporation number" means the number assigned by the Minister to a corporation in accordance with subsection 6 (1), and "number" in relation to a corporation means the corporation number of that corporation;
- 11. "court" means the Supreme Court of Ontario presided over by one of those judges of the High Court who are designated by the Chief Justice of the High Court for the purpose of hearing applications under this Act;
- 12. "debt obligation" means a bond, debenture, note or other similar obligation of a body corporate, whether secured or unsecured;
- 13. "equity share" means any share of any class of shares of a body corporate carrying voting rights under all circumstances and any share of any class of shares carrying voting rights by reason of the occurrence of any contingency that has occurred and is continuing;
- 14. "financial statement" means a financial statement referred to in section 165;
- 15. "fully diluted earnings per share" means the amount of income attributable to each share that would, if all potential conversions, exercises and contingent issuances had occurred during the period, be outstanding and have as an incident of ownership the right to participate in earnings to an unlimited degree, calculated in the manner prescribed by the regulations;

16. "individual" means a natural person, but does not include a partnership, unincorporated association, unincorporated syndicate, unincorporated organization, trust, or a natural person in his capacity as trustee, executor, administrator or other legal personal representative;
17. "interim financial statement" means a financial statement referred to in section 176;
18. "issued capital" means the issued capital as determined under section 31;
19. "Minister" means the Minister of Consumer and Commercial Relations or such other member of the Executive Council to whom the administration of this Act may be assigned;
20. "Ministry" means the Ministry of the Minister;
21. "non-resident corporation" means a corporation that is not deemed to be resident in Canada under paragraph 250 (4) (c) of the *Income Tax Act* (Canada);
22. "number name" means the name of a corporation which consists only of its corporation number followed by the word "Ontario" and one of the words or abbreviations provided for in subsection 8 (1);
23. "officer" means the chairman, any vice-chairman of the board of directors, the president, any vice-president, the secretary, the assistant secretary, the treasurer, the assistant treasurer and the general manager of a corporation, and any other person designated an officer of a corporation by by-law or by resolution of the directors or any other individual who performs functions for a corporation similar to those normally performed by an individual occupying any such office;
24. "personal representative", where used with reference to holding shares in that capacity, means an executor, administrator, guardian, tutor, trustee, receiver or liquidator or the committee of or curator to a mentally incompetent person;
25. "prescribed" means prescribed by the regulations;
26. "regulations" means the regulations made under this Act;

R.S.C. 1952,
c. 148

27. "related person", where used to indicate a relationship with any person, means,

- i. any spouse, son or daughter of that person,
- ii. any relative of such person or of his spouse, other than a relative referred to in subparagraph i, who has the same home as such person, or
- iii. any body corporate of which such person and any of the persons referred to in subparagraph i or ii or the partner or employer of such person, either alone or in combination, beneficially owns, directly or indirectly, equity shares carrying more than 50 per cent of the voting rights attached to all equity shares of the body corporate for the time being outstanding;

28. "resident Canadian" means an individual who is a Canadian citizen or has been lawfully admitted to Canada for permanent residence and who is ordinarily resident in Canada;

29. "security" means any share of any class of shares or any debt obligation of a body corporate;

30. "senior officer" means,

- i. the chairman or a vice-chairman of the board of directors, the president, a vice-president, the secretary, the treasurer or the general manager of a corporation or any other individual who performs functions for a corporation similar to those normally performed by an individual occupying any such office, and
- ii. each of the five highest paid employees of a corporation, including any individual referred to in subparagraph i;

31. "special by-law" means a by-law that is not effective until it is,

- i. passed by the directors of a corporation, and
- ii. confirmed, with or without variation, by at least two-thirds of the votes cast at a general meeting of the shareholders of the corpora-

tion duly called for that purpose, or such greater proportion of the votes cast as the articles provide, or, in lieu of such confirmation, by the consent in writing of all the shareholders entitled to vote at such meeting or their attorney authorized in writing;

32. "special resolution" means a resolution that is not effective until it is,

- i. passed by the directors of a corporation, and
- ii. confirmed, with or without variation, by at least two-thirds of the votes cast at a general meeting of the shareholders of the corporation duly called for that purpose, or such greater proportion of the votes cast as the articles provide, or, in lieu of such confirmation, by the consent in writing of all the shareholders entitled to vote at such meeting or their attorney authorized in writing;

33. "warrant" means any document issued by a body corporate entitling the holder to purchase a security of the body corporate on specified terms. R.S.O. 1970, c. 53, s. 1 (1); 1971, c. 26, s. 1; 1972, c. 1, ss. 1, 30; 1972, c. 138, s. 1 (3, 4); 1974, c. 26, s. 1; 1978, c. 49, s. 1 (1-4); 1979, c. 36, s. 1.

(2) For the purposes of this Act, a body corporate shall be deemed to be a subsidiary of another body corporate if, but only if,

Interpre-
tation:
subsidiary
body
corporate

(a) it is controlled by,

- (i) that other, or
- (ii) that other and one or more bodies corporate each of which is controlled by that other, or
- (iii) two or more bodies corporate each of which is controlled by that other; or

(b) it is a subsidiary of a body corporate that is that other's subsidiary.

Holding
body
corporate

(3) For the purposes of this Act, a body corporate shall be deemed to be another's holding body corporate if, but only if, that other is its subsidiary.

Affiliated
body
corporate

(4) For the purposes of this Act, one body corporate shall be deemed to be affiliated with another body corporate if, but only if, one of them is the subsidiary of the other or both are subsidiaries of the same body corporate or each of them is controlled by the same person.

Control

(5) For the purposes of this Act, a body corporate shall be deemed to be controlled by another person or by two or more bodies corporate if, but only if,

(a) shares of the first-mentioned body corporate carrying more than 50 per cent of the votes for the election of directors are held, other than by way of security only, by or for the benefit of such other person or by or for the benefit of such other bodies corporate; and

(b) the votes carried by such shares are sufficient, if exercised, to elect a majority of the board of directors of the first-mentioned body corporate.
R.S.O. 1970, c. 53, s. 1 (2-5).

Insolvency

(6) For the purposes of this Act, a corporation is insolvent if its liabilities exceed the realizable value of its assets or if the corporation is unable to pay its debts as they become due.

Number of
shareholders

(7) In determining the number of shareholders of a corporation, for the purposes of this Act, two or more persons holding the same share or shares jointly shall be counted as one shareholder. R.S.O. 1970, c. 53, s. 1 (7, 8).

Offering
securities
to public

(8) For the purposes of this Act, a body corporate is offering its securities to the public only where,

(a) in respect of any of its securities a prospectus, statement of material facts or securities exchange take-over bid circular has been filed under the *Securities Act*, or any predecessor thereof, or in respect of which a prospectus has been filed under *The Corporations Information Act*, being chapter 72 of the Revised Statutes of Ontario, 1960, or any predecessor thereof, so long as any of such securities are outstanding or any securities into which such securities are converted are outstanding; or

- (b) any of its securities have been at any time since the 1st day of May, 1967, listed and posted for trading on any stock exchange in Ontario recognized by the Commission, regardless of when such listing and posting for trading commenced,

except that where, upon the application of a body corporate that has fewer than fifteen security holders, the Commission is satisfied, in its discretion, that to do so would not be prejudicial to the public interest, the Commission may order, subject to such terms and conditions as the Commission may impose, that the body corporate shall be deemed to have ceased to be offering its securities to the public. 1972, c. 138, s. 1 (5); 1978, c. 49, s. 1 (6, 7).

2.—(1) This Act, except where it is otherwise expressly Application provided, applies,

- (a) to every corporation incorporated by or under a general or special Act of the Parliament of the former Province of Upper Canada;
- (b) to every corporation incorporated by or under a general or special Act of the Parliament of the former Province of Canada that has its head office and carries on business in Ontario and that was incorporated with objects to which the authority of the Legislature extends; and
- (c) to every corporation incorporated by or under a general or special Act of the Legislature,

but this Act does not apply to a corporation incorporated for the construction and working of a railway, an incline railway or a street railway, or to a corporation within the meaning of the *Loan and Trust Corporations Act* except as provided by that Act. R.S.O. 1980,
c. 249

(2) This Act does not apply to a corporation that, Idem

- (a) is a company within the meaning of the *Corporations Act* and has objects in whole or in part of a social nature; R.S.O. 1980,
c. 95
- (b) is a corporation or company within the meaning of the *Co-operative Corporations Act*; R.S.O. 1980,
c. 91

(c) is a corporation that is an insurer within the meaning of subsection 141 (1) of the *Corporations Act*;

R.S.O. 1980,
c. 95

(d) is a corporation to which the *Credit Unions and Caisses Populaires Act* applies. R.S.O. 1970, c. 53, s. 2 (2); 1973, c. 104, s. 1 (2).

R.S.O. 1980,
c. 102

INCORPORATION

Incorporation

3.—(1) A corporation may be incorporated under this Act for any lawful objects to which the authority of the Legislature extends, except those of a corporation the incorporation of which is provided for in any other Act.

Idem

(2) Notwithstanding subsection (1), a corporation may be incorporated under this Act with power only to lend and invest money on mortgage of real estate or otherwise, or with power only to accept and execute the office of liquidator, receiver, assignee, trustee in bankruptcy or trustee for the benefit of creditors and to accept the duty of and to act generally in the winding up of corporations, partnerships and estates, other than estates of deceased persons, and shall not by reason thereof be deemed to be a corporation within the meaning of the *Loan and Trust Corporations Act*, but the number of its shareholders, exclusive of persons who are in the employment of the corporation, shall be limited by its articles to five, and no such corporation shall issue debt obligations except to its shareholders, or borrow money on the security of its property except from its shareholders, or receive money on deposit or offer its securities to the public.

R.S.O. 1980,
c. 249

Professions

(3) Where the practice of a profession is governed by an Act, a corporation may be incorporated to practise the profession only if such Act expressly permits the practice of such profession by a corporation and subject to the provisions of such Act. R.S.O. 1970, c. 53, s. 3.

Articles of incorporation

4.—(1) One or more persons, being a body corporate or a natural person who is of the age of eighteen years or more, may incorporate a corporation by signing and delivering to the Minister in duplicate articles of incorporation. R.S.O. 1970, c. 53, s. 4 (1); 1971, c. 98, s. 4, Sched., par. 4.

Contents of articles

(2) The articles of incorporation shall set out:

1. The name of the corporation to be incorporated.
2. The objects for which the corporation is to be incorporated.
3. The place in Ontario where the head office of the corporation is to be located, giving the municipality and the county or district or, where the head office is to be located in territory without municipal organization, the geographic township and district and the address giving the street and number, if any.
4. The authorized capital, the classes of shares, if any, into which it is to be divided, the number of shares of each class, and the par value of each share, or, where the shares are to be without par value, the consideration, if any, exceeding which each share may not be issued or the aggregate consideration, if any, exceeding which all the shares of each class may not be issued.
5. Where there are to be special shares, the designations, preferences, rights, conditions, restrictions, limitations or prohibitions attaching to them or each class of them.
6. The restrictions, if any, to be placed on the transfer of its shares or any class thereof.
7. The number of directors of the corporation and the names in full and the residence address, giving the street and number, if any, of each person who is to be a first director of the corporation.
8. The class and number of shares, if any, to be taken by each incorporator and the amount to be paid therefor.
9. The names in full, and the residence address, giving street and number, if any, of each of the incorporators.
10. Any other matter required by this Act or the regulations to be set out in the articles.

(3) The articles may set out any provision that is ^{Idem} authorized by this Act to be set out in the articles or that could be the subject of a by-law of the corporation.

Consent
of first
directors

(4) Where the articles name as a first director a person who is not an incorporator, the articles shall have attached thereto his written and signed consent to act as a first director. R.S.O. 1970, c. 53, s. 4 (2-4).

Certificate
of
incorporation

5.—(1) Upon receiving duplicate original articles of incorporation, all other required documents executed in accordance with this Act and the prescribed fee, the Minister shall,

- (a) endorse on each of the duplicate original articles a certificate setting out the day, month and year of endorsement and the corporation number;
- (b) file one of the duplicate originals in his office; and
- (c) return to the incorporators or their agents the other duplicate original.

Idem

(2) The certificate endorsed in accordance with subsection (1) constitutes the certificate of incorporation and the corporation comes into existence upon the date set out therein.

Idem

(3) A certificate of incorporation is conclusive proof that the corporation has been incorporated under this Act on the date set out in the certificate except in a proceeding under section 241 to cancel the certificate for cause. 1979, c. 36, s. 3.

NAME

Assignment
of number

6.—(1) Every corporation shall be assigned a number by the Minister and such number shall be specified as the corporation number in the certificate of incorporation and in any other certificate issued by the Minister to the corporation.

Idem

(2) Where no name is specified in the articles which are delivered to the Minister, the corporation shall be assigned a number name.

Idem

(3) Where, through inadvertence or otherwise, the Minister has assigned to a corporation a corporation number or number name that is the same as the number or name of any other body corporate previously assigned by the Minister, the Minister may, without holding a hearing, issue a certificate of amendment to the articles changing the number or name assigned to the corporation and, upon the issuance of the certificate of amendment, the articles are amended accordingly.

(4) Where for any reason the Minister has endorsed a ^{Idem} certificate on articles that sets forth the corporation number incorrectly, the Minister may substitute a corrected certificate that shall bear the date of the certificate it replaces.

(5) The file number which has been assigned to a cor- ^{Idem} poration by the Minister prior to the 1st day of September, 1979 shall be deemed to be that corporation's number. 1979, c. 36, s. 4.

7.—(1) Subject to subsection (2), a corporation shall not be ^{Name} incorporated with a name, ^{prohibition}

- (a) that contains a word or expression prohibited by the regulations;
- (b) that, except where a number name is proposed, is the same or similar to,
 - (i) the name of a known body corporate, trust, association, partnership, sole proprietorship, or individual, whether in existence or not, or
 - (ii) the known name under which any body corporate, trust, association, partnership, sole proprietorship, or individual, carries on business or identifies itself,

if the use of that name would be likely to deceive;

- (c) that does not meet the requirements prescribed by the regulations.

(2) A corporation may be incorporated with a name ^{Exception} described in clause (1) (b) upon complying with conditions pre- ^{to subs. (1)} scribed by the regulations.

(3) There shall be filed with the Minister such documents ^{Documents} relating to the name of the corporation as may be prescribed ^{file} by the regulations. 1979, c. 36, s. 5.

8.—(1) The word "Limited", "Incorporated" or "Cor- ^{Use of} poration" or the corresponding abbreviation "Ltd.", "Inc." ^{"Limited"} or "Corp." shall be the last word of the name of every ^{"Incor-} corporation, but a corporation may use and may be legally ^{porated"} designated by either the full or the abbreviated form. ^{"Corporation"}

(2) Subject to the provisions of this Act and the regu- ^{Corporate} lations, a corporation may have in its articles of incorporation ^{name} a special provision permitting it to set out its name in any language and the corporation may be legally designated by that name.

Letters and
numerals
permitted

(3) Only letters from the alphabet of the English language or Arabic numerals or a combination thereof, together with such punctuation marks and other marks as are permitted by regulation, may form part of the name of a corporation.

Exception

(4) Subsection (3) does not apply to a name under subsection (2). 1979, c. 36, s. 6.

Change not
to affect
rights, etc.

9. A change in the name of a corporation does not affect its rights or obligations. R.S.O. 1970, c. 53, s. 9.

Unauthorized
use of
"Limited",
etc.

10.—(1) No person, partnership or association, while not incorporated, shall trade or carry on a business or undertaking under a name in which "Limited", "Incorporated" or "Corporation" or any abbreviation thereof, or any version thereof in another language, is used.

Idem

(2) Where a corporation carries on business or identifies itself to the public in a name or style other than as provided in the articles, that name or style shall not include the word "Limited", "Incorporated" or "Corporation", any abbreviation thereof or any version thereof in another language. 1979, c. 36, s. 7.

Change of
name if
objectionable

11.—(1) If a corporation, through inadvertence or otherwise, has acquired a name contrary to section 7, the Minister may, after he has given the corporation an opportunity to be heard, issue a certificate of amendment to the articles changing the name of the corporation to a name specified in the certificate and, upon the issuance of the certificate of amendment, the articles are amended accordingly.

Failure to
perform
undertaking

(2) Where an undertaking to dissolve or change its name is given by a corporation to which this Act applies and the undertaking is not carried out within the time specified, the Minister may, after giving the corporation an opportunity to be heard, issue a certificate of amendment to the articles changing the name of the corporation to a name specified in the certificate and, upon the issuance of the certificate of amendment, the articles are amended accordingly.

Idem

(3) Where an undertaking to dissolve or change its name is given by a body corporate to which this Act does not apply, or by a trust, association, partnership, sole proprietorship or individual, and the undertaking is not carried out within the time specified, the Minister may, after giving the corporation that acquired the name by virtue of such undertaking an opportunity to be heard, issue a certificate

of amendment to the articles changing the name of the corporation to a name specified in the certificate and, upon the issuance of the certificate, the articles are amended accordingly.

(4) Where the name of a corporation has been changed under proceedings taken under this section, the corporation may, subject to section 7, thereafter deliver to the Minister articles of amendment under the provisions of this Act changing its name to the name specified in the articles. 1979, c. 36, s. 8.

Change of
name

SEAL AND HEAD OFFICE

12.—(1) A corporation shall have a seal which shall be adopted and may be changed by resolution of the directors.

Corporate
seal

(2) The name of the corporation shall appear in legible characters on the seal. R.S.O. 1970, c. 53, s. 13.

Idem

13.—(1) Subject to subsection (2), a corporation shall at all times have its head office at the place in Ontario where the articles provide that the head office is to be located.

Head
office

(2) A corporation may by special by-law change the municipality or geographic township in which its head office is located to another place in Ontario.

Change of
head office

(3) Where the location of the head office of a corporation is changed by reason only of the annexation or amalgamation of the place in which the head office is located to or with another municipality, such change does not constitute and has never constituted a change within the meaning of subsection (2).

Where
municipality
annexed
or amal-
gamated

(4) The corporation shall, within ten days after a by-law passed under subsection (2) has been confirmed by the shareholders, file a certified copy of the by-law with the Minister.

Filing of
by-law

(5) A corporation may by resolution of the directors change the location of its head office within a municipality

Change of
street
address

or geographic township and shall, within ten days after the passing of the resolution, file with the Minister notice of the change giving the address including the street and number, if any, of the new location.

Validity

(6) Failure to comply with subsection (4) or (5) does not affect the validity of the by-law or resolution. R.S.O. 1970, c. 53, s. 14.

POWERS*General***Corporate
character-
istics**

14.—(1) Every corporation has power,

- (a) to have perpetual succession;
- (b) to contract and sue and be sued in its corporate name; and
- (c) to carry on business in or identify itself to the public by a name or style other than its corporate name. R.S.O. 1970, c. 53, s. 15 (1).

**Incidental
powers**

(2) A corporation has power as incidental and ancillary to the objects set out in its articles,

- 1. to carry on any other business capable of being conveniently carried on in connection with its business or likely to enhance the value of or make profitable any of its property or rights;
- 2. to acquire or undertake the whole or any part of the business, property and liabilities of any person carrying on any business that the corporation is authorized to carry on;
- 3. to apply for, register, purchase, lease, acquire, hold, use, control, license, sell, assign or dispose of patents, patent rights, copyrights, trade marks, formulae, licences, inventions, processes, distinctive marks and similar rights;
- 4. to enter into partnership or into any arrangement for sharing of profits, union of interests, co-opera-

- tion, joint adventure, reciprocal concession or otherwise with any person or body corporate carrying on or engaged in or about to carry on or engage in any business or transaction that the corporation is authorized to carry on or engage in or any business or transaction capable of being conducted so as to benefit the corporation;
5. to take or otherwise acquire and hold securities in any other body corporate having objects altogether or in part similar to those of the corporation or carrying on any business capable of being conducted so as to benefit the corporation;
 6. to lend money to any other body corporate or any firm or person having dealings with the corporation or with whom the corporation proposes to have dealings or to any other body corporate any of whose shares are held by the corporation;
 7. to apply for, secure or acquire by grant, legislative enactment, assignment, transfer, purchase or otherwise, and to exercise, carry out and enjoy any charter, licence, power, authority, franchise, concession, right or privilege, that any government or authority or any body corporate or other public body may be empowered to grant, and to pay for, aid in and contribute toward carrying it into effect and to assume any liabilities or obligations incidental thereto;
 8. to establish and support or aid in the establishment and support of associations, institutions, funds or trusts for the benefit of employees or former employees of the corporation or its predecessors, or the dependants or connections of such employees or former employees, and grant pensions and allowances, and make payments towards insurance or for any object similar to those set forth in this paragraph, and to subscribe or guarantee money for charitable, benevolent, educational or religious objects or for any exhibition or for any public, general or useful objects;
 9. to promote any body corporate for the purpose of acquiring or taking over any of the property and liabilities of the body corporate or for any other purpose that may benefit the corporation;

10. to purchase, lease, take in exchange, hire or otherwise acquire any personal property and any rights or privileges that the corporation considers necessary or convenient for the purposes of its business;
11. to construct, maintain and alter any buildings or works necessary or convenient for its objects;
12. to acquire by purchase, lease or otherwise and hold any land or interest therein necessary for its actual use and occupation or for carrying on its undertaking, and, when no longer necessary therefor, to sell, alienate or convey it;
13. to take, hold and alienate real and personal property that has in good faith been mortgaged to the corporation by way of security for, or conveyed to it in satisfaction of, debts previously contracted in the course of its business, or purchased at judicial sales upon levy for such indebtedness, or otherwise purchased for the purpose of avoiding a loss to the corporation;
14. to construct, improve, maintain, work, manage, carry out or control any roads, ways, tramways, branches or sidings, bridges, reservoirs, watercourses, wharves, manufactories, warehouses, electric works, shops, stores and other works and conveniences that may advance the interests of the corporation, and contribute to, subsidize or otherwise assist or take part in the construction, improvement, maintenance, working, management, carrying out or control thereof;
15. to raise and assist in raising money for, and aid by way of bonus, loan, promise, endorsement, guarantee or otherwise, any person or body corporate and guarantee the performance or fulfilment of any contracts or obligations of any person or body corporate, and in particular guarantee the payment of the principal of and interest on the debt obligations of any such person or body corporate;
16. to draw, make, accept, endorse, discount, execute and issue bills of exchange, promissory notes, bills

of lading, warrants and other negotiable or transferable instruments;

17. where authorized to do so by a special resolution and by such additional authorization as the articles provide, to sell, lease, exchange or otherwise dispose of all or substantially all the property of the corporation for such consideration as the corporation thinks fit;
18. to sell, improve, manage, develop, exchange, lease, dispose of, turn to account or otherwise deal with the property of the corporation in the ordinary course of its business;
19. to adopt such means of making known the products of the corporation as may seem expedient, and in particular by advertising, by purchase and exhibition of works of art or interest, by publication of books and periodicals and by granting prizes and rewards and making donations;
20. to cause the corporation to be registered and recognized in any foreign jurisdiction or any province or territory of Canada, and designate persons therein according to the laws of that foreign jurisdiction or that province or territory of Canada to represent the corporation and to accept service for and on behalf of the corporation of any process or suit;
21. to allot and issue fully-paid shares of the corporation in payment or part payment of any property purchased or otherwise acquired by the corporation or for any past services performed for the corporation;
22. to distribute among the shareholders of the corporation in cash, kind, specie or otherwise as may be resolved, by way of dividend, bonus or in any other manner considered advisable, any property of the corporation, but not so as to decrease the capital of the corporation unless the distribution is made for the purpose of enabling the corporation to be dissolved or the distribution, apart from this paragraph, would be otherwise lawful;

23. to establish agencies and branches;
24. to take or hold mortgages, hypothecs, liens and charges to secure payment of the purchase price, or of any unpaid balance of the purchase price, of any part of the property of the corporation of whatsoever kind sold by the corporation, or for any money due to the corporation from purchasers and others and to sell or otherwise dispose of any such mortgage, hypothec, lien or charge;
25. to pay all costs and expenses of or incidental to the incorporation and organization of the corporation;
26. to invest and deal with the moneys of the corporation not immediately required for the objects of the corporation in such manner as may be determined;
27. to do any of the things authorized by this subsection and all things authorized by its articles as principals, agents, contractors, trustees or otherwise, and either alone or in conjunction with others;
28. to do all such other things as are incidental or conducive to the attainment of the objects and the exercise of the powers of the corporation,

except that the incidental and ancillary powers of a corporation incorporated under subsection 3 (2) are limited to those set out in paragraphs 7, 8, 11, 12, 16, 17, 18, 20, 22 and 25. R.S.O. 1970, c. 53, s. 15 (2); 1972, c. 138, s. 6.

Limited
by articles

(3) Any of the powers set out in subsection (2) may be withheld or limited by the articles.

Power to
act outside
Ontario

(4) Every corporation may exercise its powers beyond the boundaries of Ontario to the extent to which the laws in force where the powers are sought to be exercised permit, and may accept extra-provincial powers and rights. R.S.O. 1970, c. 53, s. 15 (3, 4).

Acting
outside
powers

15.—(1) No act of a corporation and no transfer of real or personal property to or by a corporation, otherwise law-

ful, that is heretofore or hereafter done or made, is invalid by reason of the fact that the corporation was without capacity or power to do such act or make or receive such transfer, but such lack of capacity or power may be asserted,

- (a) in a proceeding against the corporation by a shareholder under subsection (2);
- (b) in a proceeding by the corporation, whether acting directly or through a receiver, liquidator, trustee or other legal representative or through shareholders in a representative capacity, against a director or officer or former director or officer of the corporation; or
- (c) as cause for the cancellation of the certificate of incorporation of the corporation under section 241.

(2) A shareholder of a corporation may apply to a court of competent jurisdiction for an order to restrain the corporation from doing any act or transferring or receiving the transfer of real or personal property on the ground that the corporation lacks capacity or power for the purpose, and the court may, if it considers it to be just and equitable, grant an order prohibiting the corporation from doing the act or transferring or receiving the transfer of the real or personal property, but, where the act or transfer sought to be restrained or prohibited is being or to be done or made under a contract to which the corporation is a party,

Restraining
order

- (a) all the parties to the contract shall be parties to the proceeding;
- (b) the court in granting the order may set aside the contract and allow the corporation or other parties to the contract, as the case may be, such compensation as may be equitable for the loss or damage sustained by any of them from the granting of the order and setting aside of the contract, other than anticipated profits from the contract. R.S.O. 1970, c. 53, s. 16.

16.—(1) Except as provided in subsection (2), a corporation shall not,

Loans to
shareholders,
directors,
etc.

- (a) make loans to any of its shareholders, directors or employees; or

- (b) give, directly or indirectly, by means of a loan, guarantee, the provision of security or otherwise, any financial assistance for the purpose of, or in connection with, a purchase or subscription made or to be made by any person of any shares of the corporation. R.S.O. 1970, c. 53, s. 17 (1).

Exceptions

(2) A corporation may,

- (a) make loans to any of its shareholders, directors or employees in the ordinary course of its business where the making of loans is part of the ordinary business of the corporation;
- (b) make loans to *bona fide* full-time employees of the corporation whether or not they are shareholders or directors, with a view to enabling them to purchase or erect dwelling houses for their own occupation, and may take from such employees mortgages or other security for the repayment of such loans;
- (c) provide, in accordance with a scheme for the time being in force, money by way of loan for the purchase of or subscription for shares of the corporation by trustees, to be held by or for the benefit of *bona fide* employees of the corporation, whether or not they are shareholders or directors;
- (d) make loans to *bona fide* employees of the corporation, other than directors, whether or not they are shareholders, with a view to enabling them to purchase or subscribe for shares of the corporation to be held by them by way of beneficial ownership; or
- (e) if it is not offering its securities to the public, give directly or indirectly by means of a loan, guarantee, the provision of security or otherwise, financial assistance to any of its shareholders or directors with a view to enabling them to purchase issued shares of the corporation. R.S.O. 1970, c. 53, s. 17 (2); 1972, c. 138, s. 7.

By special
by-law only

- (3) The power mentioned in clause (2) (b), (c) or (d) may be exercised only under the authority of a special by-law. R.S.O. 1970, c. 53, s. 17 (3).

Contracts

17.—(1) A contract that if entered into by an individual person would be by law required to be in writing and under seal may be entered into on behalf of a corporation in writing under the seal of the corporation.

Contracts
in writing
under seal

(2) A contract that if entered into by an individual person would be by law required to be in writing signed by the parties to be charged therewith may be entered into on behalf of a corporation in writing signed by any person acting under its authority, express or implied.

Contracts
in writing
not under
seal

(3) A contract that if entered into by an individual person would be by law valid although made by parol only and not reduced into writing may be entered into by parol on behalf of a corporation by any person acting under its authority, express or implied. R.S.O. 1970, c. 53, s. 18.

Parol
contracts

18. A corporation may, by writing under seal, empower any person, either generally or in respect of any specified matters, to execute, as its attorney and on its behalf in any place within or outside Ontario, documents to which it is a party in any capacity and that are required by law to be under seal, and every document signed by such attorney on behalf of the corporation acting within the scope of his authority, express or implied, and under his seal binds the corporation and has the same effect as if it were under the seal of the corporation. R.S.O. 1970, c. 53, s. 19.

Power of
attorney

19.—(1) In this section,

Interpre-
tation

(a) “contractor” means a person who enters into a pre-incorporation contract in the name of or on behalf of a corporation before its incorporation;

(b) “other party” means a person with whom a contractor enters into a pre-incorporation contract;

(c) “pre-incorporation contract” means a contract entered into by a contractor in the name of or on behalf of a corporation before its incorporation.

(2) A corporation may adopt a pre-incorporation contract entered into in its name or on its behalf, and thereupon the corporation is entitled to the benefits and is subject

Adoption
of pre-
incorpora-
tion
contracts

to the liabilities that were contracted in its name or on its behalf and the contractor ceases to be entitled to such benefits or to be subject to such liabilities.

Non-
adoption of
pre-incor-
poration
contracts

(3) Where a pre-incorporation contract is not adopted by a corporation, the contractor is entitled to the benefits and subject to the liabilities under the contract and is entitled to recover from the corporation the value of any benefit received by the corporation under the contract.

Application
to court
for relief

(4) Whether or not a pre-incorporation contract is adopted by the corporation, the other party may apply to the court which may, notwithstanding subsections (2) and (3), make an order fixing or apportioning liability as between the contractor and the corporation in any manner the court considers just and equitable under the circumstances. R.S.O. 1970, c. 53, s. 20.

By-laws and Resolutions

By-laws

20.—(1) The directors may pass by-laws not contrary to this Act or to the articles to regulate,

- (a) the allotment and issue of shares, the payment thereof, the issue of share certificates, and the transfer and the registration of transfers of shares;
- (b) the declaration and payment of dividends;
- (c) the qualification and remuneration of the directors;
- (d) the time for and the manner of election of directors;
- (e) the appointment, remuneration, functions, duties and removal of agents, officers and employees of the corporation and the security, if any, to be given by them to it;
- (f) the time and place and the notice to be given for the holding of meetings of shareholders and of the board of directors, the quorum at meetings of shareholders, the requirements as to proxies, and the procedure in all things at shareholders' meetings and at meetings of the board of directors;

- (g) the conduct in all other particulars of the affairs of the corporation.

(2) Subject to section 21, a by-law passed under subsection (1) and a repeal, amendment or re-enactment thereof is effective from the time of its passing if it is confirmed, with or without variation, at a general meeting of the shareholders duly called for that purpose or at the next annual meeting of the shareholders, whichever is held first. Confirmation

(3) The shareholders may, at the general meeting or the annual meeting mentioned in subsection (2), confirm, reject, amend or otherwise deal with any by-law passed by the directors and submitted to the meeting for confirmation, but no act done or right acquired under any such by-law is prejudicially affected by any such rejection, amendment or other dealing. Powers
re con-
firmation

(4) Where a by-law or repeal, amendment or re-enactment thereof is not confirmed at a meeting as required by subsection (2), it has effect from the time of its passing until the meeting but not thereafter, and no subsequent by-law, repeal, amendment or re-enactment of the same or similar substance has any effect until it is confirmed at a general meeting of the shareholders duly called for that purpose. Rejection
R.S.O. 1970, c. 53, s. 21.

21.—(1) A by-law relating to the remuneration of a director as director shall fix the remuneration and the period for which it is to be paid. Remunera-
tion of
directors

(2) A by-law passed under subsection (1) is not effective until it is confirmed at a general meeting of the shareholders duly called for that purpose. Confirma-
tion
R.S.O. 1970, c. 53, s. 22.

22.—(1) Any by-law or resolution consented to at any time during a corporation's existence by the signatures of all the directors is as valid and effective as if passed at a meeting of the directors duly called, constituted and held for that purpose. By-laws and
resolutions

(2) Any resolution consented to at any time during a corporation's existence by the signatures of all the shareholders entitled to vote at a meeting of shareholders is as valid and effective as if passed at a meeting of the shareholders duly called, constituted and held for that purpose. Idem

Alternative
method of
confirming
by-laws

(3) Any by-law or resolution passed by the directors at any time during a corporation's existence may, in lieu of confirmation at a general meeting of shareholders, be confirmed in writing by all the shareholders entitled to vote at such meeting. R.S.O. 1970, c. 53, s. 23 (1-3).

Idem

(4) Any by-law, resolution or other action of a corporation that has only one shareholder consented to at any time during a corporation's existence by the signature of such shareholder is as valid and effective as if passed at a meeting of shareholders duly called, constituted and held for that purpose.

Evidentiary
value of
signatures

(5) Where a by-law, resolution or other action purports to have been consented to or confirmed under this section by the signatures of all the directors or shareholders, as the case may be, of the corporation, the signatures to the by-law, resolution or other action are admissible in evidence as *prima facie* proof of the signatures of the directors or shareholders, as the case may be, that they purport to represent and are admissible in evidence as *prima facie* proof that the signatories to the by-law, resolution or other action were all the directors or all the shareholders entitled to vote at meetings of shareholders, as the case may be, at the date that the by-law, resolution or other action purports so to have been consented to or confirmed. 1971, c. 26, s. 3.

SHARES

Authorized Capital

Authorized
capital

23.—(1) The authorized capital of a corporation shall be divided into shares with par value or without par value or both and may consist of shares of more than one class.

Par shares

(2) Where all the shares of a corporation are with par value, its authorized capital shall be expressed in Canadian or other currency in its articles, or partly in one currency and partly in another, and is an amount equal to the total of the products of the number of shares of each class multiplied by the par value thereof.

No par
shares

(3) Where all the shares of a corporation are without par value, its authorized capital shall be expressed in its articles as a specified number of shares.

(4) Where part of the shares of a corporation are with par value and part are without par value, its authorized capital shall be expressed in its articles as a specified number of shares of each class of shares having a specified par value and a specified number of shares of each class of shares without par value. R.S.O. 1970, c. 53, s. 24.

No par
and par
shares

24. Where all the shares of a corporation are without par value or where part of its shares are with par value and part are without par value, the articles may provide,

Considera-
tion for no
par shares

(a) that each share without par value shall not be issued for a consideration; or

(b) the shares of each class of shares without par value shall not be issued for an aggregate consideration,

exceeding in amount or value a stated amount in Canadian or other currency, and the articles may provide, in addition, that such share or shares may be issued for such greater amount as the board of directors of the corporation by resolution determines. R.S.O. 1970, c. 53, s. 25 (1).

25.—(1) The common shares of a corporation shall be shares to which there is attached no preference, right, condition, restriction, limitation or prohibition set out in the articles of the corporation, other than a restriction on the allotment, issue or transfer. R.S.O. 1970, c. 53, s. 26 (1).

Common
shares

(2) Except as provided in subsection 36 (1), where a corporation has one class of shares, that class shall be common shares and designated as provided in the articles. R.S.O. 1970, c. 53, s. 26 (2); 1972, c. 138, s. 8 (1).

Classes
of shares

(3) Except as provided in subsection 36 (1), where a corporation has more than one class of shares, one class shall be common shares, designated as provided in the articles, and the other shares shall be special shares and may consist of one or more classes of special shares and shall have attached thereto the designations, preferences, rights, conditions, restrictions, limitations or prohibitions set out in the articles. R.S.O. 1970, c. 53, s. 26 (3); 1972, c. 138, s. 8 (2).

Idem

Preference
shares

(4) No class of special shares shall be designated as preference shares or by words of like import, unless that class has attached thereto a preference or right over the common shares. R.S.O. 1970, c. 53, s. 26 (4).

Special
shares

26.—(1) Each class of special shares may have attached to it preferences, rights, conditions, restrictions, limitations or prohibitions, including but not limited to,

- (a) the right to cumulative, non-cumulative or partially cumulative dividends;
- (b) a preference over any other class or classes of shares as to the payment of dividends;
- (c) a preference over any other class or classes of shares as to repayment of capital upon the dissolution of the corporation or otherwise;
- (d) the exclusive right to elect part of the board of directors;
- (e) the right to convert the shares of that class into shares of another class or classes of shares;
- (f) the right of the corporation at its option to redeem all or part of the shares of the class or the right of a shareholder at his option to require the redemption of all or part of his shares of the class;
- (g) the purchase for cancellation by the corporation of all or part of the shares of that class by agreement with the holders thereof;
- (h) conditions, restrictions, limitations or prohibitions on the right to vote at meetings of shareholders. R.S.O. 1970, c. 53, s. 27 (1); 1971, c. 26, s. 5; 1972, c. 138, s. 9.

Valuation
of shares

(2) Any provision in the articles under clause (1) (c) or (f) shall set out the method by which the amount to be paid in respect of each share of the class is to be determined. R.S.O. 1970, c. 53, s. 27 (2).

27. Except as provided in section 28, each share of a class shall be the same in all respects as every other share of that class. R.S.O. 1970, c. 53, s. 28. Equality of shares of a class

28.—(1) The articles of a corporation may authorize the issue from time to time in one or more series of the special shares of a class and may authorize the directors to fix from time to time before such issue the designation, preferences, rights, conditions, restrictions, limitations or prohibitions attaching to the shares of each series of the class. Special shares in series

(2) The shares of all series of the same class of special shares shall carry the same voting rights or the same restrictions, conditions, limitations or prohibitions on the right to vote. Voting rights

(3) Where any dividends or amounts payable on a repayment of capital are not paid in full, the shares of all series of the same class of special shares shall participate rateably in respect of such dividends, including accumulations, if any, in accordance with the sums that would be payable on such shares if all such dividends were declared and paid in full, and on any repayment of capital in accordance with the sums that would be payable on such repayment of capital if all sums so payable were paid in full. R.S.O. 1970, c. 53, s. 29. Proportionate abatement

29.—(1) The articles may set forth the designation, preferences, rights, conditions, restrictions, limitations and prohibitions attaching to the first series to be issued in which case the special shares of the first series may be issued in accordance with the articles. Provision for first series in articles

(2) A series, other than one to which subsection (1) applies, shall not be issued until, Conditions to issue of series

(a) the directors have by resolution fixed the designation, preferences, rights, conditions, restrictions, limitations and prohibitions attaching to the special shares of the series; and

(b) the statement referred to in section 30 has been filed with the Minister and the certificate of the

Minister has been issued under section 30. R.S.O. 1970, c. 53, s. 30.

Filing of
statement

30.—(1) For the purpose of bringing a resolution passed by the directors under subsection 29 (2) into effect, the corporation shall deliver to the Minister, within six months after the resolution has been passed, a statement in duplicate executed under the seal of the corporation and signed by two officers, or by one director and one officer, of the corporation setting out,

- (a) the name of the corporation;
- (b) a certified copy of the resolution;
- (c) that the resolution was duly passed by the directors;
- (d) the date of the passing of the resolution; and
- (e) that the conditions, if any, contained in the articles or in any prior resolution precedent to the creation and issue of the shares of the series have been complied with.

Issuance of
certificate

(2) Upon receiving duplicate original statements executed in accordance with this Act and the prescribed fee, the Minister shall,

- (a) endorse on each of the duplicate original statements a certificate setting out the day, month and year of endorsement and the corporation number;
- (b) file one of the duplicate originals in his office; and
- (c) return to the corporation or its agents the other duplicate original.

Effect of
certificate

(3) Upon the date set out in the certificate endorsed in accordance with subsection (2), the resolution referred to in subsection 29 (2) becomes effective and constitutes an amendment to the articles. 1979, c. 36, s. 11.

Issued Capital

Issued
capital:
par value
shares

31.—(1) Where all the shares of a corporation are with par value, its issued capital share be expressed in Canadian

or other currency, or partly in one currency and partly in another, and is an amount equal to the total of the products of the number of issued shares of each class multiplied by the par value thereof less such decreases in the issued capital as from time to time have been effected by the corporation in accordance with this Act.

(2) Where the shares of a corporation are without par value or where part of its shares are with par value and part are without par value, its issued capital shall be expressed in Canadian or other currency, or partly in one currency and partly in another, and is an amount equal to the total of the products of the number of issued shares of each class with par value multiplied by the par value thereof, together with the amount of the consideration for which the shares without par value from time to time outstanding were issued and together with such amounts as from time to time by by-law of the corporation may be transferred thereto and less such decreases in the issued capital as from time to time have been effected by the corporation in accordance with this Act. R.S.O. 1970, c. 53, s. 32.

no par value
shares, etc.

32.—(1) Where an issued share of a class with par value is cancelled, the issued capital is decreased by an amount equal to the par value of the shares of that class.

Cancellation: of
par share

(2) Where an issued share of a class without par value is cancelled, the issued capital is decreased by an amount equal to the amount obtained by dividing,

of no par
share

(a) that part of the issued capital attributable to that class of shares in accordance with subsection 31 (2);

by

(b) the number of issued shares of that class.

(3) Where a fraction of an issued share of a class is cancelled, the issued capital is decreased by an amount that bears the same proportion to the amount determined under subsection (1) or (2), as the case may be, that the fraction bears to a whole share of that class. R.S.O. 1970, c. 53, s. 33.

of fraction
of share

Redemption, Purchase, Conversion and Surrender

33.—(1) Where the shares of a class of special shares are made redeemable at the option of the corporation by the

Redemption
of special
shares

articles and part only of the special shares are to be redeemed, the shares to be redeemed shall be selected,

- (a) by lot in such manner as the board of directors determines;
- (b) as nearly as may be in proportion to the number of special shares of the class registered in the name of each shareholder; or
- (c) in such other manner as the board of directors determines with the consent of the holders of special shares of the class obtained in the manner set out in subsection (2),

but the articles may confine the manner of selection to one or more of those methods set out in clauses (a), (b) and (c). 1971, c. 26, s. 6; 1972, c. 138, s. 10.

Idem

(2) Where shares of a class of special shares are selected in the manner referred to in clause (1) (c), the selection shall be consented to in writing by,

- (a) all the holders of the special shares of the class; or
- (b) at least 95 per cent of the holders of the special shares of the class holding at least 95 per cent of the issued shares of that class if, after twenty-one days notice has been given by sending notice to each of the holders of shares of that class addressed to him at his latest address as shown on the records of the corporation, none of the holders of shares of that class dissents in writing to the corporation.

Idem

(3) Where a holder of redeemable special shares of a corporation that is not offering its securities to the public dies or leaves its employment, notwithstanding subsection (1), it may within one year of such event redeem all or any of the special shares held by him. R.S.O. 1970, c. 53, s. 34 (2, 3).

Purchase
of special
shares for
cancellation

34.—(1) Where the shares of a class of special shares are made purchasable for cancellation by the articles, then,

(a) the shares shall be purchased at the lowest price at which, in the opinion of the directors, the shares are obtainable, but not exceeding an amount stated in or determined by the articles; and

(b) the shares shall be purchased either,

(i) on the open market,

(ii) with the consent of all the holders of the shares of the class, or

(iii) pursuant to tenders received by the corporation upon request for tenders addressed to all the holders of the shares of the class and the corporation shall accept only the lowest tenders,

but the articles may confine the manner of purchase to one or more of those set out in subclauses (i), (ii) and (iii). 1971, c. 26, s. 7.

(2) Where, in response to the invitation for tenders, ^{Idem} two or more shareholders submit tenders at the same price and the tenders are accepted by the corporation as to part only of the shares offered, the corporation shall accept part of the shares offered in each tender in proportion as nearly as may be to the total number of shares offered in each tender. R.S.O. 1970, c. 53, s. 35 (2).

35.—(1) The articles of a corporation shall not provide for the conversion of shares with par value into shares with par value if the aggregate par value of the shares being converted is not equal to the aggregate par value of the shares into which they are converted. ^{Conversion: of par shares to par shares}

(2) Where, in accordance with the articles, shares with par value are converted into shares without par value, the issued capital of the corporation attributable to the shares resulting from the conversion shall be equal to the aggregate par value of the shares converted. ^{par shares to no par shares}

(3) Where the articles provide for the conversion of shares without par value into shares with par value, no such share shall be converted unless that part of the issued capital ^{no par shares to par shares}

attributable to the shares being converted is equal to the aggregate par value of the shares resulting from the conversion.

no par
shares to
no par
shares

(4) Where, in accordance with the articles, shares without par value are converted into shares without par value, the issued capital shall remain unchanged.

of special
shares

(5) Where special shares of a class are converted into the same or another number of shares of another class or classes, whether special or common, the shares converted thereupon become the same in all respects as the shares of the class or classes respectively into which they are converted, and the number of shares of each class affected by the conversion is changed and the articles are amended accordingly. R.S.O. 1970, c. 53, s. 36.

Mutual
fund shares

36.—(1) Where the only undertaking of a corporation is the business of investing the funds of the corporation, its articles may provide for the issuing of one or more classes of special shares that are mutual fund shares and fractions or parts thereof that have attached thereto conditions requiring the corporation to accept, at the demand of the holder thereof and at prices determined and payable in accordance with the conditions, the surrender of the shares, or fractions or parts thereof, and where a corporation to which this section applies has one or more classes of mutual fund shares of which one class has attached thereto no conditions, restrictions, limitations or prohibitions on the right to vote, the corporation is not required to have any other class of shares. 1972, c. 138, s. 11.

Conditions
and price

(2) Articles that provide for the issuing of mutual fund shares shall set out the conditions governing,

(a) the surrender of mutual fund shares or any fractions or parts thereof; and

(b) the determination of the price to be paid therefor and the manner and time of payment thereof.
R.S.O. 1970, c. 53, s. 37 (2).

Redemption,
purchase or
surrender
while
insolvent

37.—(1) A corporation shall not redeem or purchase special shares or accept mutual fund shares for surrender if the corporation is insolvent or if the redemption, purchase or surrender would render the corporation insolvent.

(2) Special shares that are redeemed or purchased by a corporation are thereby cancelled, and the authorized and issued capital of the corporation are thereby decreased and the articles are amended accordingly. R.S.O. 1970, c. 53, s. 38 (1, 2).

Cancellation
on
redemption,
purchase or
surrender

38.—(1) A corporation may purchase any of its issued shares if the purchase is made for the purpose of eliminating fractions of shares or for the purpose of collecting or compromising indebtedness to the corporation.

Purchase of
common
shares

(2) Where authorized in its articles, and subject to any restrictions contained therein, a corporation may purchase any of its issued common shares.

Idem

(3) A corporation shall not purchase shares under this section if the corporation is insolvent or if the purchase would render the corporation insolvent.

Idem

(4) No purchase of shares shall be made under this section by a corporation unless the purchase is authorized by a resolution of the board of directors.

Idem

(5) Where a corporation purchases shares under subsection (2), the purchase shall be made at the lowest price at which, in the opinion of the directors, such shares are obtainable, and,

Method of
purchase

(a) pursuant to tenders received by the corporation upon request for tenders addressed to all the holders of the shares of the class and the corporation shall accept only the lowest tenders; or

(b) from *bona fide* full-time employees and former employees of the corporation; or

(c) where the shares to be purchased are of a body corporate that is offering its shares to the public, by purchase on the open market.

(6) Where, in response to the invitation for tenders, two or more shareholders submit tenders at the same price and the tenders are accepted by the corporation as to part

Idem

only of the shares offered, the corporation shall accept part of the shares offered in each tender in proportion as nearly as may be to the total number of shares offered in each tender. 1972, c. 138, s. 13.

Cancellation
on purchase

39.—(1) Shares or fractions thereof purchased under subsection 38 (1) are thereby cancelled and the authorized and issued capital are thereby decreased and the articles are amended accordingly.

Cancellation
or resale

(2) Where its issued common shares are purchased by a corporation under subsection 38 (2), where mutual fund shares are accepted for surrender by a corporation under section 36, where a corporation accepts the donation of any of its shares under section 41, or where a corporation purchases the shares of a dissenting shareholder under section 98,

- (a) if the articles so require, the shares shall be cancelled and thereupon the authorized and issued capital of the corporation are thereby decreased, and the articles are amended accordingly;
- (b) if the articles do not require the shares to be cancelled,
 - (i) the board of directors may cancel the shares at such time as it determines, in which case the authorized and issued capital of the corporation are thereby decreased and the articles are amended accordingly, or
 - (ii) the board of directors may resell the shares at such time and price and on such terms as it determines. 1972, c. 138, s. 14, *part*.

Performance
of agreement
to purchase
shares

40. An agreement for the purchase by a corporation of its shares under section 38 is not invalid or unenforceable because of the possibility that the corporation may not be able to comply with section 38, but such agreement is,

- (a) subject to subsection 133 (2), valid if performed; and

- (b) if not performed, valid and enforceable to the extent the corporation is able to purchase its shares at the time for performance. 1972, c. 138, s. 14, *part*.

41. A corporation may accept from any shareholder a donation of any of its shares without any repayment of capital in respect thereof. R.S.O. 1970, c. 53, s. 43 (1). Donation
of shares

Allotment, Issue and Transfer

42.—(1) In the absence of a provision to the contrary in the articles or by-laws of the corporation, shares may be allotted and issued at such times and in such manner and to such persons or class of persons as the directors determine. Issue of
shares

(2) Shares with par value shall not be allotted or issued except for a consideration at least equal to the product of the number of shares allotted or issued multiplied by the par value thereof. Considera-
tion for
par shares

(3) Subject to section 24, shares without par value shall not be allotted or issued except for such consideration as is fixed by the directors. Considera-
tion for no
par shares

(4) No share shall be issued until it is fully paid and a share is not fully paid until all the consideration therefor in cash, property or services, as determined under this section, has been received by the corporation. R.S.O. 1970, c. 53, s. 44 (1-4). Fully-paid
shares

(5) For the purposes of subsection (4) and paragraph 21 of subsection 14 (2), a document evidencing indebtedness of the allottee does not constitute property, and services shall be past services actually performed for the corporation, and the value of property or services shall be the value the directors determine by express resolution to be in all the circumstances of the transaction the fair equivalent of the cash value. 1971, c. 26, s. 10. Idem

43.—(1) A corporation may provide by special by-law for the payment of commissions or allowing discounts to persons in consideration of their subscribing or agreeing to subscribe, whether absolutely or conditionally, for shares in the corporation, or procuring or agreeing to procure subscriptions, Commission
on sale
of shares

whether absolute or conditional, for such shares, but, except in the case of a corporation that carries on as its principal business the business of exploring for minerals, gas or oil or of operating a producing mining, gas or oil property owned and controlled by it or a corporation at least 75 per cent of whose assets are of a wasting character, no such commission or discount shall exceed 25 per cent of the amount of the subscription price. 1971, c. 26, s. 11.

No
unauthorized
commissions

(2) Except as provided in subsection (1), no corporation shall apply any of its shares or capital, either directly or indirectly, in payment of any commission, discount or allowance to any person in consideration of his subscribing or agreeing to subscribe, whether absolutely or conditionally, for shares of the corporation or procuring or agreeing to procure subscriptions, whether absolute or conditional, for such shares, whether the shares or capital is so applied by being added to the purchase money of any property acquired by the corporation or to the contract price of any work to be executed for the corporation, or is paid out of the nominal purchase money or contract price or otherwise. R.S.O. 1970, c. 53, s. 45 (2).

Shares
personal
property

44. The shares of a corporation are personal property. R.S.O. 1970, c. 53, s. 46.

Restrictions
on transfer

45.—(1) A corporation shall not impose restrictions on the transfer of shares except such restrictions as are authorized by the articles.

No public
offer if
transfer
restricted

(2) A corporation that has imposed restrictions on the transfer of its shares shall not offer its shares to the public unless the restrictions are necessary,

- (a) by or under any Act of Canada or Ontario as a condition to the obtaining, holding or renewal of authority to engage in any activity necessary to its undertaking; or
- (b) for the purpose of achieving or preserving its status as a Canadian corporation for the purpose of any Act of Canada or Ontario.

Lien for
indebtedness

(3) Except in the case of shares listed on a stock exchange recognized by the Commission, where the articles or by-laws so provide the corporation has a lien to the extent of the debt on the shares registered in the name of a shareholder who is indebted to the corporation. R.S.O. 1970, c. 53, s. 47.

46.—(1) Except in the cases mentioned in this section, a corporation shall not be a shareholder of a body corporate that is its holding body corporate, and any allotment or transfer of shares of a corporation to its subsidiary is void. Subsidiaries not to hold shares of holding bodies corporate

(2) This section does not apply to a subsidiary holding shares as personal representative unless the holding body corporate or a subsidiary thereof is beneficially interested under a trust and is not so interested only by way of security for the purposes of a transaction entered into by it in the ordinary course of a business that includes the lending of money. Application

(3) This section does not prevent a subsidiary that on the 30th day of April, 1954, held shares of its holding body corporate from continuing to hold such shares, but, subject to subsection (2), the subsidiary has no right to vote at meetings of shareholders of the holding body corporate or at meetings of any class of shareholders thereof. Exception

(4) Subject to subsection (2), subsections (1) and (3) apply in relation to a nominee for a corporation that is a subsidiary as if the references in subsections (1) and (3) to such a corporation included references to a nominee for it. 1971, c. 26, s. 12. Nominees

Share Certificates

47.—(1) Every shareholder is entitled to a share certificate in respect of the shares held by him, signed by the proper officers in accordance with the corporation's by-laws in that regard, but the corporation is not bound to issue more than one share certificate in respect of a share or shares held jointly by several persons, and delivery of a share certificate to one of several joint shareholders is sufficient delivery to all. Share certificates

(2) A corporation may charge a fee of not more than \$1 for every share certificate issued, except that, in the case of the allotment and issue of shares, no fee shall be charged. R.S.O. 1970, c. 53, s. 49. Fee

48. A share certificate shall be signed manually by at least one officer of the corporation or by or on behalf of a transfer agent or branch transfer agent of the corporation, and the corporation may by by-law provide that any additional signatures required on share certificates may be printed, engraved, lithographed or otherwise mechanically repro- Signing of share certificates

duced thereon, and in such event share certificates so signed are as valid as if they had been signed manually. R.S.O. 1970, c. 53, s. 50.

Contents
of share
certificates

49.—(1) Every share certificate shall state upon its face,

- (a) the name of the corporation and the words "Incorporated under the law of the Province of Ontario" or words of like effect;
- (b) the name of the person to whom the share is issued as holder; and
- (c) the number and class of shares represented thereby and whether the shares are with par value or without par value and, if with par value, the par value thereof.

Statements
on share
certificates

(2) A share certificate issued for a share of a class of special shares shall,

- (a) legibly state on the certificate or have attached thereto a legible statement of the preferences, rights, conditions, restrictions, prohibitions or limitations attaching to that class of shares; or
- (b) legibly state on the certificate that there are preferences, rights, conditions, restrictions, prohibitions or limitations attaching to that class and that a copy of the full text thereof is obtainable on demand and without fee from the corporation.

Production
of
preferences,
etc.

(3) Where a share certificate contains a statement as provided in clause (2) (b), the corporation shall furnish to the shareholder on demand without fee a copy of the full text of the preferences, rights, conditions, restrictions, prohibitions and limitations attaching to the share.

Lien on
shares

(4) Where the articles or by-laws provide that a corporation has a lien on shares as authorized by subsection 45 (3), the right of the corporation to the lien shall be noted conspicuously on every share certificate issued by the corporation. R.S.O. 1970, c. 53, s. 51 (1-4).

Transfer
restricted

(5) A share certificate issued for one or more shares the transfer of which is restricted in accordance with the articles shall,

- (a) legibly state on the certificate or have attached thereto a legible statement of the restrictions on the right to transfer the shares; or
- (b) legibly state on the certificate that there are restrictions on the right to transfer the shares and that a copy of the full text thereof is obtainable on demand and without fee from the corporation.

(6) Where a share certificate contains a statement as provided in clause (5) (b), the corporation shall furnish to the shareholder on demand without fee a copy of the full text of the restrictions on the right to transfer the shares. 1971, c. 26, s. 13.

50. Where, as a result of a change in the authorized capital of a corporation, a person becomes entitled to a fraction of a share, he is not entitled to be registered on the records of the corporation in respect thereof or to receive a share certificate therefor, but he is entitled to receive a bearer fractional certificate in respect of such fraction, and, on presentation at the head office of the corporation or at a place designated by the corporation of bearer fractional certificates for fractions that together represent a whole share, a share certificate for a whole share shall be issued in exchange therefor, and sections 61 to 95 apply thereto. R.S.O. 1970, c. 53, s. 52.

BORROWING

51.—(1) When authorized by special by-law, the directors may,

- (a) borrow money on the credit of the corporation; or
- (b) issue, sell or pledge debt obligations of the corporation; or
- (c) charge, mortgage, hypothecate or pledge all or any currently owned or subsequently acquired real or personal, movable or immovable property of the corporation, including book debts, rights, powers, franchises and undertaking, to secure any debt obligations or any money borrowed, or other debt or liability of the corporation.

(2) Any by-law referred to in subsection (1) may,

- (a) limit the amount to be borrowed as determined by the by-law; and

Contents
of by-law

- (b) provide for the delegation by the directors of the powers conferred on them under the by-law to such directors or officers of the corporation and to such extent and manner as is set out in the by-law. R.S.O. 1970, c. 53, s. 53.

Bearer debt obligations

52. Nothing in this Act prohibits the issue of debt obligations in bearer form. R.S.O. 1970, c. 53, s. 54.

Irredeemable debt obligation

53. A condition contained in a debt obligation or in an instrument for securing a debt obligation is not invalid by reason only that the debt obligation is thereby made irredeemable or redeemable only on the happening of a contingency, however remote, or on the expiration of a period, however long. R.S.O. 1970, c. 53, s. 55.

Filing debt obligations

54.—(1) Where a corporation makes a charge, mortgage or other instrument of hypothecation or pledge to secure its debt obligations, the corporation shall, forthwith after the making thereof, file a duplicate original or certified copy of the instrument in the office of the Minister, but such filing may be made by any interested person.

Recovery of fee

(2) Where the filing is by an interested person under subsection (1), that person is entitled to recover from the corporation the amount of any prescribed fee paid by him on such filing. R.S.O. 1970, c. 53, s. 56 (1, 2).

Exception

(3) Subsection (1) does not apply to an instrument filed or registered under any other Act. 1971, c. 26, s. 14.

Indenture Trustees

Interpretation

55.—(1) In this section and in sections 56 to 60,

- (a) “trust indenture” means any deed, indenture or document howsoever designated, including any supplement or amendment thereto, by the terms of which a body corporate issues or guarantees debt obligations and in which a trustee is appointed as trustee for the holders of the debt obligations issued or guaranteed thereunder;
- (b) “trustee” means any person appointed as trustee under the terms of a trust indenture, whether or not the person is a trust company authorized to carry on business in Ontario;
- (c) “event of default” means any event specified in a trust indenture on the occurrence of which,

- (i) the security interest, if any, constituted by the trust indenture shall become enforceable, or
- (ii) the principal, interest and other moneys payable thereunder shall become or may be declared to be payable prior to maturity,

provided that any such event shall not be an event of default unless all conditions prescribed by the trust indenture in connection with such event for the giving of notice or the lapse of time or otherwise has been satisfied. 1972, c. 138, s. 16, *part*.

(2) This section and sections 56 to 60 apply to a trust indenture, whether entered into before or after the date on which this Act comes into force, if, in respect of any of the debt obligations outstanding or guaranteed thereunder or to be issued or guaranteed thereunder, a prospectus or securities exchange take-over bid circular has been filed under the *Securities Act*, or any predecessor thereof or in respect of which a prospectus has been filed under *The Corporations Information Act*, being chapter 72 of the Revised Statutes of Ontario, 1960, or any predecessor thereof. 1972, c. 138, s. 16, *part*; 1978, c. 49, s. 3.

Application
of ss. 56 to 60

R.S.O. 1980,
c. 466

(3) The person appointed as trustee under a trust indenture, or at least one of such persons if more than one is so appointed, shall be resident or authorized to do business in Ontario. 1972, c. 138, s. 16, *part*.

Resident
trustee

56.—(1) In the exercise of the rights and duties prescribed or conferred by the terms of a trust indenture, a trustee shall exercise that degree of care, diligence and skill that a reasonably prudent trustee would exercise in comparable circumstances.

Duty of
trustees

(2) The provisions of this section apply notwithstanding any provision in a trust indenture, including any provision relieving or purporting to relieve a trustee from liability for his own negligent action or failure to act or his own wilful misconduct. 1972, c. 138, s. 17, *part*.

Exculpatory
clauses

57. A person shall not be appointed a trustee under a trust indenture if a material conflict of interest exists in the trustee's role as a fiduciary thereunder at the time of such appointment, but if, notwithstanding the provisions of this section, such a material conflict of interest exists, the validity and enforceability of the said trust indenture, the security interest created thereby and thereunder and the securities issued thereunder shall not be affected in any manner whatsoever by reason only that such material conflict

Conflict of
interest

of interest exists but such trustee shall, within ninety days after ascertaining that he has such material conflict of interest, either eliminate such material conflict of interest or resign from office, and where a material conflict of interest arises subsequently to the appointment of the trustee under a trust indenture, the trustee shall, within ninety days after ascertaining that he has such material conflict of interest, either eliminate such material conflict of interest or resign from office. 1972, c. 138, s. 17, *part*.

Evidence of
compliance

58.—(1) The issuer or guarantor of debt obligations issued or to be issued under a trust indenture shall furnish to the trustee evidence of compliance with the conditions precedent provided for in the trust indenture relating to,

- (a) the certification and delivery of debt obligations under the trust indenture;
- (b) the release or release and substitution of property subject to any mortgage, charge, lien or other encumbrance created by the trust indenture;
- (c) the satisfaction and discharge of the trust indenture; or
- (d) the taking of any other action to be taken by the trustee at the request of or on the application of the issuer or guarantor.

Idem

(2) The evidence of compliance required under subsection (1) shall consist of,

- (a) a statutory declaration or a certificate made by any officer of the issuer or guarantor stating that such conditions precedent have been complied with in accordance with the terms of the trust indenture;
- (b) in the case of conditions precedent compliance with which are, by the trust indenture, made subject to review or examination by a solicitor, an opinion of a solicitor that such conditions precedent have been complied with in accordance with the terms of the trust indenture; and
- (c) in the case of conditions precedent compliance with which are, by the trust indenture, made subject to review or examination by auditors or accountants, an opinion or report of the auditor of the issuer or guarantor or any accountant licensed under

the *Public Accountancy Act* or comparable legislation of the jurisdiction in which such accountant practises, in each case approved by the trustee, that such conditions precedent have been complied with in accordance with the terms of the trust indenture.

R.S.O. 1980,
c. 405

(3) The evidence of compliance required under subsection *Idem* (1) shall include,

- (a) a statement by the person giving the evidence that he has read and is familiar with those provisions of the trust indenture relating to the conditions precedent with respect to compliance with which such evidence is being given;
- (b) a brief statement of the nature and scope of the examination or investigation upon which the statements or opinions contained in such evidence are based;
- (c) a statement that, in the belief of the person giving such evidence, he has made such examination or investigation as is necessary to enable him to make the statements or give the opinions contained or expressed therein; and
- (d) a statement whether in the opinion of such person the conditions precedent with respect to compliance with which such evidence is being given have been complied with or satisfied.

(4) The issuer or guarantor of debt obligations under the trust indenture shall furnish the trustee annually, and at any other reasonable time if the trustee so requires, its certificate that the issuer or guarantor has complied with all covenants, conditions or other requirements contained in the trust indenture, the non-compliance with which would, with the giving of notice or the lapse of time, or both, or otherwise, constitute an event of default thereunder, or if such is not the case, specifying the covenant, condition or other requirement that has not been complied with and giving particulars of such non-compliance.

Certificate of
issuer or
guarantor

(5) The issuer or guarantor of debt obligations under the trust indenture shall, whenever the trustee so requires, furnish the trustee with evidence by way of statutory declaration, opinion, report or certificate as specified by the trustee as to any action or step required or permitted to be taken by the issuer or guarantor under the trust indenture or as a result of any obligation imposed by the trust indenture.

Evidence of
compliance

Reliance on
opinions

(6) In the exercise of his rights and duties, the trustee may, if he is acting in good faith, rely, as to the truth of the statements and the accuracy of the opinions expressed therein, upon a statutory declaration, opinion, report or certificate furnished to the trustee under this section or a provision of the trust indenture or at the request of the trustee where,

(a) in the case of a statutory declaration, opinion, report or certificate furnished under this section, the trustee examines the same and determines that it complies with the applicable requirements, if any, of this section; or

(b) in the case of a statutory declaration, opinion, report or certificate furnished pursuant to a provision of the trust indenture or at the request of the trustee, the trustee examines the same and determines that it complies with the applicable requirements, if any, of the trust indenture. 1972, c. 138, s. 17, *part*.

Trustee
not to be
receiver

59. A trustee under a trust indenture and any related person to such trustee shall not be appointed a receiver or receiver and manager or liquidator of the assets or undertaking of the issuer or guarantor of the debt obligations under the trust indenture. 1972, c. 138, s. 17, *part*.

Notice of
events of
default

60. The trustee shall be required to give to the holders of debt obligations issued under the trust indenture, within a reasonable time but not exceeding thirty days after the trustee becomes aware of the occurrence thereof, notice of every event of default arising under the trust indenture and continuing at the time the notice is given, unless the trustee in good faith determines that the withholding of such notice is in the best interests of the holders of the debt obligations and so advises the issuer in writing. 1972, c. 138, s. 17, *part*.

INVESTMENT SECURITIES

General

Interpre-
tation

61.—(1) In this section and in sections 62 to 95,

(a) “adverse claim” includes a claim that a transfer is or would be unauthorized or wrongful or that a particular adverse person is the owner of or has an interest in the security;

(b) “appropriate person”, when used to refer to a person endorsing a security, means,

- (i) the person specified by the security or by special endorsement to be entitled to the security,
 - (ii) where the person so specified is described as a trustee or other fiduciary but is no longer serving in that capacity and notwithstanding that a successor has been appointed or qualified,
 - a. where only one person is so described, that person or his successor, or
 - b. where more than one person is so described, the remaining persons,
 - (iii) where the person so specified is an individual and is without capacity to act by virtue of death, incompetence, minority or otherwise, his executor, administrator, committee, guardian or like fiduciary,
 - (iv) where the security or endorsement specified more than one person as joint tenants or with right of survivorship and by reason of death, incompetence, minority or otherwise, survivors,
 - (v) a person having the power to sign under the applicable law or controlling instrument, or
 - (vi) to the extent any of the foregoing persons may act through an agent, his authorized agent;
- (c) "bearer form" when applied to a security means a security that runs to bearer according to its terms and not by reason of any endorsement;
- (d) "broker" means a person engaged for all or part of his time in the business of buying and selling securities, who holds registration as a broker or in a similar capacity under the *Securities Act*, or who is recognized for the purpose of sections 62 to 95 by the Commission as a broker, and who in the transaction concerned acts for or buys a security from or sells a security to a customer;
- (e) "clearing corporation" means a body corporate recognized as a clearing corporation by the Commission;

1980-81,
c. 40 (Can.)

R.S.O. 1980,
c. 249

(f) “custodian” means a bank to which the *Bank Act* (Canada) applies, a trust company registered under the *Loan and Trust Corporations Act* or such other body corporate as may be recognized by the Commission as a custodian and that is acting as custodian for a clearing corporation;

(g) “genuine” means free from forgery or counterfeiting;

(h) “noted conspicuously” and “appearing conspicuously” means written in such a way that the person against whom words so noted or appearing are to operate ought reasonably to notice them;

(i) “proper form” means regular on its face with regard to all formal matters;

(j) “registered form” when applied to a security means a security that is not in bearer form and that specifies a person entitled to the security or the rights it evidences;

(k) “security” means a document that evidences a security or that is a warrant;

(l) “unauthorized”, when used with reference to a signature or endorsement, means one made without actual, implied or apparent authority and includes a forgery. R.S.O. 1970, c. 53, s. 63 (1); 1971, c. 26, s. 16; 1972, c. 138, s. 18; 1978, c. 49, s. 4.

Application
of ss. 62-95
R.S.C. 1970,
c. B-5

(2) Sections 62 to 95 do not apply to a promissory note or bill of exchange to which the *Bills of Exchange Act* (Canada) applies. R.S.O. 1970, c. 53, s. 63 (2).

Issuer's
liens

62. A lien upon a security in favour of an issuer thereof is valid against a purchaser only if the right of the issuer to such lien is noted conspicuously on the security. R.S.O. 1970, c. 53, s. 64.

Overissue

63.—(1) In this section, “overissue” means the issue of securities in excess of the amount which the issuer has corporate power to issue.

Idem

(2) The provisions of this Act that validate a security or compel its issue or reissue do not apply to the extent that validation, issue or reissue would result in overissue, but,

- (a) if an identical security that does not constitute an overissue is reasonably available for purchase, the person entitled to issue or validation may compel the issuer to purchase and deliver such a security to him against surrender of the security, if any, that he holds; or
- (b) if a security is not so available for purchase, the person entitled to issue or validation may recover from the issuer the price he or the last purchaser for value paid for it with interest from the date of his demand. R.S.O. 1970, c. 53, s. 65.

64. In any action on a security,

Evidence

- (a) unless specifically denied in the pleadings, each signature on the security or in a necessary endorsement is admitted;
- (b) where the effectiveness of a signature is put in issue, the burden of establishing its effectiveness is on the party claiming under the signature, but the signature is *prima facie* proof that it is genuine and authorized;
- (c) where signatures are admitted or established, production of the instrument entitles a holder to recover on it unless the defendant establishes a defence or a defect going to the validity of the security; and
- (d) after it is shown that a defence or defect exists, the plaintiff has the burden of establishing that he or some person under whom he claims is a person against whom the defence or defect is ineffective. R.S.O. 1970, c. 53, s. 66.

65.—(1) The validity of a security and the rights and duties with respect to registration of transfer of an issuer that is a corporation or a body corporate incorporated under the laws of Ontario are governed by this Act and the laws of Ontario. ^{Selection of laws}

(2) The validity of a security and the rights and duties ^{Idem} with respect to registration of transfer of an issuer that is a body corporate other than a corporation or a body corporate incorporated under the laws of Ontario, are governed by the law, including the conflict of law rules, of the jurisdiction in which the body corporate was incorporated. R.S.O. 1970, c. 53, s. 67.

Form of
transfer

66.—(1) Unless otherwise agreed and subject to any applicable law or regulation respecting short sales, a person obligated to deliver securities may deliver any security of the specified issue in bearer form or registered in the name of the transferee or endorsed to him in blank or to bearer. R.S.O. 1970, c. 53, s. 68 (1).

Default in
payment

(2) Where the buyer fails to pay the price as it comes due under a contract of sale, the seller may recover the price,

(a) of any security accepted by the buyer; and

(b) of any security not accepted by the buyer if its resale would be unduly burdensome or there is no readily available market. R.S.O. 1970, c. 53, s. 68 (2); 1972, c. 138, s. 19.

*Rights and Liabilities of Issuer,
Registrar and Transfer Agent*

Issuer

67.—(1) The obligations and defences of an issuer apply to a body corporate that,

(a) places or authorizes the placing of its name on a security, otherwise than as an authenticating trustee, registrar or transfer agent, to evidence that it represents a share, participation or other interest in its property or in an enterprise or to evidence its duty to perform an obligation evidenced by the security;

(b) directly or indirectly creates fractional interests in its rights or property which fractional interests are evidenced by securities; or

(c) becomes responsible for or in place of any other person described as an issuer in this section.

Guarantor

(2) The obligations and defences of an issuer apply to a guarantor of a security to the extent of his guaranty whether or not his obligation is noted on the security.

Person
maintaining
transfer
books

(3) The person on whose behalf a register of transfers is maintained is an issuer for the purposes of the registration of a transfer under sections 90 to 93. R.S.O. 1970, c. 53, s. 69.

Notice of
terms of
security

68.—(1) A purchaser for value shall be deemed to have notice of the terms of a security including those stated on

the security and those made part of the security by reference to another instrument, indenture or document or to a statute, ordinance, rule, regulation, order or other written law to the extent that the terms so referred to do not conflict with the stated terms, except that he shall be deemed not to have such notice of a defect going to the validity of the security even though the security expressly states that a person accepting it admits such notice.

(2) Except as otherwise provided in the case of certain unauthorized signatures on issue, lack of genuineness of a security is a complete defence even against a purchaser for value and without notice. ^{Defence of issuer}

(3) All other defences of the issuer including non-delivery ^{Idem} and conditional delivery of the security are ineffective against a purchaser for value who has taken without notice of the particular defence.

(4) Nothing in this section shall be construed to affect ^{Idem} the right of a party to a "when, as and if issued" or a "when distributed" contract to cancel the contract in the event of a material change in the character of the security that is the subject of the contract or in the plan or arrangement under which such security is to be issued or distributed. R.S.O. 1970, c. 53, s. 70.

69.—(1) After an act or event that creates a right to immediate performance of the principal obligation evidenced by the security or that sets a date on or after which the security is to be presented or surrendered for redemption or exchange, a purchaser is charged with notice of any defect in its issue or any defence of the issuer, ^{Notice of defect}

(a) if the act or event is one requiring the payment of money or the delivery of securities or both on presentation or surrender of the security and such funds or securities are available on the date set for payment or exchange and he takes the security more than one year after that date; and

(b) if the act or event is not one to which clause (a) applies and he takes the security more than two years after the date set for surrender or presentation or the date on which such performance became due.

(2) Subsection (1) does not apply to a call for redemption that has been revoked. R.S.O. 1970, c. 53, s. 71. ^{Revoked call for redemption excepted}

Restriction
on transfer

70.—(1) Unless noted conspicuously on the security, a restriction on transfer imposed by the issuer even though otherwise lawful is ineffective except against a person with actual knowledge of it.

Exception for
securities
of former
private
companies
R.S.O. 1980,
c. 95

(2) Where a corporation was incorporated as a private company under the *Corporations Act*, or any predecessor thereof, before the 1st day of January, 1971, the words "private company" appearing conspicuously on the face of its securities issued before the 1st day of January, 1971 shall be deemed to be notice of its restriction on the transfer of the securities for the purposes of subsection (1). R.S.O. 1970, c. 53, s. 72.

Unauthorized
signatures
on issue

71. An unauthorized signature placed on a security prior to or in the course of issue is ineffective except that the signature is effective in favour of a purchaser for value and without notice of the lack of authority if the signing has been done by,

- (a) an authenticating trustee, registrar, transfer agent or other person entrusted by the issuer with the signing of the security or of similar securities or their immediate preparation for signing; or
- (b) an employee of the issuer, entrusted with responsibility for handling of the security. R.S.O. 1970, c. 53, s. 73.

Completion
of blanks

72.—(1) Where a security contains the signatures necessary to its issue or transfer but is incomplete in any other respect,

- (a) any person may complete it by filling in the blanks as authorized; and
- (b) even though the blanks are incorrectly filled in, the security as completed is enforceable by a purchaser who took it for value and without notice of such incorrectness.

Improper
alteration

(2) A complete security that has been improperly altered, even though fraudulently, remains enforceable but only according to its original terms. R.S.O. 1970, c. 53, s. 74.

Effect of
registration

73.—(1) Subject to sections 104 and 110, the issuer or the indenture trustee may treat the registered holder as the person entitled to receive notice of and to vote at meetings of the security holders and to receive any payment in respect of the security and otherwise to exercise all the rights and powers of an owner.

(2) Nothing in sections 62 to 95 shall be construed to ^{Idem} affect the liability of the registered owner of a security for calls, assessments or similar liabilities. R.S.O. 1970, c. 53, s. 75.

74.—(1) A person placing his signature upon a security as authenticating trustee, registrar or transfer agent warrants to a purchaser for value without notice of the particular defect that, ^{Warranties on issue}

- (a) the security is genuine and in proper form;
- (b) his own participation in the issue of the security is within his capacity and within the scope of the authorization received by him from the issuer; and
- (c) he has reasonable grounds to believe that the security is in the form and within the amount the issuer is authorized to issue. 1971, c. 26, s. 17.

(2) Unless otherwise agreed, a person by so placing his signature does not assume responsibility for the validity of the security in other respects. R.S.O. 1970, c. 53, s. 76 (2). ^{Idem}

Rights and Liabilities of Purchaser and Seller

75.—(1) Upon delivery of a security, the purchaser acquires the rights in the security that his transferor had or ^{Rights acquired by purchasers} had actual authority to convey except that a purchaser who has himself been a party to any fraud or illegality affecting the security or who as a prior holder had notice of an adverse claim cannot improve his position by taking from a later purchaser for value in good faith who was without notice of any adverse claim.

(2) A purchaser for value in good faith and without notice of any adverse claim in addition to acquiring the rights of a purchaser also acquires the security free of any adverse claim. ^{bona fide purchaser}

(3) A purchaser of a limited interest acquires rights only to the extent of the interest purchased. R.S.O. 1970, c. 53, s. 77. ^{Limited interest}

76.—(1) A purchaser, including a broker for the seller or buyer, of a security is charged with notice of adverse claims if, ^{Notice of adverse claims}

- (a) the security whether in bearer or registered form has been endorsed “for collection” or “for surrender” or for some other purpose not involving transfer; or

- (b) the security is in bearer form and has on it an unambiguous statement that it is the property of a person other than the transferor, but the mere writing of a name on a security shall not be deemed such a statement.

Idem

(2) The fact that the purchaser, including a broker for the seller or the buyer, has notice that the security is held for a third person or is registered in the name of or endorsed by a fiduciary does not create a duty of inquiry into the rightfulness of the transfer or constitute notice of adverse claims, but if the purchaser has knowledge that the proceeds are being used or that the transaction is for the individual benefit of the fiduciary or otherwise in breach of duty, the purchaser is charged with notice of adverse claims.

Idem

(3) An act or event that creates a right to immediate performance of the principal obligation evidenced by the security or that sets a date on or after which the security is to be presented or surrendered for redemption or exchange does not of itself constitute any notice of adverse claims except in the case of a purchase,

- (a) after one year from any date set for such presentment or surrender for redemption or exchange; or
- (b) after six months from any date set for payment of money against presentation or surrender of the security if funds are available for payment on that date. R.S.O. 1970, c. 53, s. 78.

Warranties
on
presentment

77.—(1) A person who presents a security for registration of transfer or for payment or exchange warrants to the issuer that he is entitled to the registration, payment or exchange, but a purchaser for value without notice of adverse claims who receives a new, reissued or reregistered security on registration of transfer warrants only that he has no knowledge of any unauthorized signature in a necessary endorsement.

Warranties
on transfer

(2) A person by transferring a security to a purchaser for value warrants only that,

- (a) his transfer is effective and rightful;
- (b) the security is genuine and has not been materially altered; and
- (c) he knows no fact that might impair the validity of the security.

(3) Where a security is delivered by an intermediary known by the transferee to be entrusted with delivery of the security on behalf of another or with collection of a draft or other claim against such delivery, the intermediary by such delivery warrants only his own good faith and authority even though he has purchased or made advances against the claim to be collected against the delivery, but a broker is not an intermediary within the meaning of this subsection. ^{Warranties of intermediary}

(4) A pledgee or other holder for security who redelivers the security received, or after payment and on order of the debtor delivers that security to a third person, makes only the warranties of an intermediary under subsection (3). ^{Warranties of pledgee}

(5) A broker gives to his customer and to the issuer and a purchaser the warranties provided in this section and has the rights and privileges of a purchaser under this section and the warranties of and in favour of the broker acting as an agent are in addition to applicable warranties given by and in favour of his customer. R.S.O. 1970, c. 53, s. 79. ^{Warranties of broker}

78. Where a security in registered form has been delivered to a purchaser without a necessary endorsement, he may become a purchaser for value in good faith and without notice of any adverse claim only as of the time the endorsement is supplied, but against the transferor the transfer is complete upon delivery and the purchaser has a specifically enforceable right to have any necessary endorsement supplied. R.S.O. 1970, c. 53, s. 80. ^{Absence of endorsement}

79.—(1) An endorsement of a security in registered form is made when an appropriate person signs on it or on a separate document an assignment or transfer of the security or a power to assign or transfer it or when the signature of such person is written without more upon the back of the security. ^{Endorsement}

(2) An endorsement of a security may be, ^{Idem}

(a) in blank, including to bearer; or

(b) a special endorsement, specifying the person to whom the security is to be transferred or who has the power to transfer it,

and a holder may convert an endorsement in blank into a special endorsement.

(3) Unless otherwise agreed, the endorser by his endorsement assumes no obligation that the security will be honoured by the issuer. ^{Obligations of endorser}

Partial
endorsement

(4) An endorsement purporting to be only of part of a security representing units intended by the issuer to be separately transferable is effective to the extent of the endorsement.

Appropriate
person

(5) Whether the person signing is appropriate shall be determined as of the date of signing and an endorsement by such person does not become unauthorized for the purposes of this Act by virtue of any subsequent change of circumstances.

Improper
endorsement
by fiduciary

(6) Failure of a fiduciary to comply with a controlling instrument or with the law applicable to the fiduciary relationship, including any law requiring the fiduciary to obtain court approval of the transfer, does not render his endorsement unauthorized for the purposes of this Act. R.S.O. 1970, c. 53, s. 81.

Delivery
necessary

80. An endorsement of a security whether special or in blank does not constitute a transfer until delivery of the security on which it appears, or if the endorsement is on a separate document until the delivery of both the document and the security. R.S.O. 1970, c. 53, s. 82.

Effect of
unauthorized
endorsement

81. Unless the owner has ratified an unauthorized endorsement or is otherwise precluded from asserting its ineffectiveness,

(a) he may assert its ineffectiveness against the issuer or any purchaser other than a purchaser for value and without notice of adverse claims who has in good faith received a new, reissued or reregistered security on registration of transfer; and

(b) an issuer who registers the transfer of a security upon the unauthorized endorsement is subject to liability for improper registration. R.S.O. 1970, c. 53, s. 83.

Guarantee
of signature

82.—(1) Any person guaranteeing a signature of an endorser of a security warrants that at the time of signing,

(a) the signature was genuine;

(b) the signer was an appropriate person to endorse; and

(c) the signer had legal capacity to sign,

but the guarantor does not otherwise warrant the rightfulness of the particular transfer.

(2) Any person may guarantee an endorsement of a security and by so doing warrants not only the signature but also the rightfulness of the particular transfer in all respects. Guarantee of endorsement

(3) No issuer may require a guarantee of endorsement as a condition to registration of transfer. Idem

(4) The warranties referred to in subsections (1) and (2) are made to any person taking or dealing with the security in reliance on the guarantee and the guarantor is liable to such person for any loss resulting from breach of the warranties. Liability of guarantor
R.S.O. 1970, c. 53, s. 84.

83.—(1) Delivery to a purchaser occurs when, What constitutes delivery

- (a) he or a person designated by him acquires possession of a security;
- (b) his broker acquires possession of a security specially endorsed or issued in the name of the purchaser;
- (c) his broker sends him confirmation of the purchase and also by book entry or otherwise identifies a specific security in the broker's possession as belonging to the purchaser;
- (d) with respect to an identified security to be delivered while still in the possession of a third person, when that person acknowledges that he holds for the purchaser; or
- (e) appropriate entries in the records of a clearing corporation are made under section 89.

(2) The purchaser is the owner of a security held for him by his broker, but is not the holder except as specified in clauses (1) (b), (c) and (e), but where a security is part of a fungible bulk the purchaser is the owner of a proportionate property interest in the fungible bulk. Idem

(3) Notice of an adverse claim received by the broker or by the purchaser after the broker takes delivery as a holder for value is not effective either as to the broker or as to the purchaser, but as between the broker and the purchaser, the purchaser may demand delivery of an equivalent security as to which no notice of an adverse claim has been received. Notice of adverse claim after delivery
R.S.O. 1970, c. 53, s. 85.

84.—(1) Unless otherwise agreed where a sale of a security is made on a stock exchange recognized for the purposes of Duty of seller to deliver

sections 62 to 95 by the Commission or otherwise through brokers,

- (a) the selling customer fulfills his duty to deliver when he places such a security in the possession of the selling broker or of a person designated by the broker or, if requested, causes an acknowledgment to be made to the selling broker that it is held for him; and
- (b) the selling broker including a correspondent broker acting for a selling customer fulfills his duty to deliver by placing the security or a like security in the possession of the buying broker or a person designated by him or by effecting clearance of the sale in accordance with the rules of the recognized stock exchange on which the transaction took place.

Idem

(2) Except as otherwise provided in this section and unless otherwise agreed, a transferor's duty to deliver a security under a contract of purchase is not fulfilled until he places the security in form to be negotiated by the purchaser in the possession of the purchaser or of a person designated by him or at the purchaser's request causes an acknowledgment to be made to the purchaser that it is held for him.

Idem

(3) Subsection (2) applies to a sale to a broker purchasing on his own account unless the sale is made on a recognized stock exchange. R.S.O. 1970, c. 53, s. 86.

Action for
wrongful
transfer

85.—(1) Any person against whom the transfer of a security is wrongful for any reason, including his incapacity, may against anyone else except a purchaser for value in good faith and without notice of any adverse claim reclaim possession of the security or obtain possession of any new security evidencing all or part of the same rights or have damages.

Idem

(2) If the transfer is wrongful because of an unauthorized endorsement, the owner may also reclaim or obtain possession of the security even from a purchaser for value in good faith and without notice of any adverse claim if the ineffectiveness of the purported endorsement can be asserted against him under the provisions of this Act relating to unauthorized endorsements.

Specific
performance
and
injunction

(3) The right to obtain or reclaim possession of a security may be specially enforced by specific performance or its transfer enjoined. R.S.O. 1970, c. 53, s. 87.

86.—(1) Unless otherwise agreed, the transferor shall on due demand supply his purchaser with any proof of his authority to transfer or with any other requisite that may be necessary to obtain registration of the transfer of the security, but if the transfer is not for value a transferor need not do so unless the purchaser furnishes the necessary expenses.

Transferor's
duty to
provide
requisites
for
registration
of transfer

(2) Failure to comply with a demand made under sub-section (1) within a reasonable time gives the purchaser the right to reject or rescind the transfer. R.S.O. 1970, c. 53, s. 88.

Effect
of failure

87. An agent or bailee who in good faith, including observance of reasonable commercial standards if he is in the business of buying, selling or otherwise dealing with securities, has received securities and sold, pledged or delivered them according to the instructions of his principal is not liable for conversion or for participation in breach of fiduciary duty although the principal has no right to dispose of them. R.S.O. 1970, c. 53, s. 89.

Transfer
by agent
in good
faith not
conversion

88. A contract for the sale of securities is not enforceable by way of action or defence unless,

Contract
for sale

- (a) there is some writing signed by the party against whom enforcement is sought or by his authorized agent or broker sufficient to indicate that a contract has been made for sale of a stated quantity of described securities at a defined or stated price;
- (b) delivery of the security has been accepted or payment has been made, but the contract is enforceable under this provision only to the extent of such delivery or payment;
- (c) within a reasonable time a writing in confirmation of the sale or purchase and sufficient against the sender under clause (a) has been received by the party against whom enforcement is sought and he has failed to send written objection to its contents within a reasonable time after its receipt; or
- (d) the party against whom enforcement is sought admits in his pleading, testimony or otherwise in court that a contract was made for sale of a stated quantity of described securities at a defined or stated price. R.S.O. 1970, c. 53, s. 90.

Transfer
through
clearing
corporation

89.—(1) If a security,

- (a) is in the custody of a clearing corporation or of a custodian or nominee of either, subject to the instructions of the clearing corporation;
- (b) is in bearer form or endorsed in blank by an appropriate person or registered in the name of the clearing corporation or custodian or a nominee of either; and
- (c) is shown on the account of a transferor or pledgor in the records of the clearing corporation,

then, in addition to other methods, a transfer or pledge of the security or any interest therein may be effected by the making of appropriate entries in the records of the clearing corporation, reducing the account of the transferor or pledgor and increasing the account of the transferee or pledgee by the amount of the obligation or the number of shares or rights transferred or pledged.

Interest in
fungible
bulk

(2) Under this section, entries may be in respect of like securities or interests therein as part of a fungible bulk and may refer merely to a quantity of a particular security without reference to the name of the registered owner, certificate or bond number or the like and, in appropriate cases, may be on a net basis taking into account other transfers or pledges of the same security.

Constructive
endorsement
and delivery

(3) A transfer or pledge under this section has the effect of a delivery of a security in bearer form or duly endorsed in blank representing the amount of the obligation or the number of shares or rights transferred or pledged.

Idem

(4) If a pledge or the creation of a security interest is intended, the making of entries has the effect of a taking of delivery by the pledgee or a secured party.

Holder

(5) A transferee or pledgee under this section is a holder.

Not
registration

(6) A transfer or pledge under this section does not constitute a registration of transfer under sections 90 to 94.

Error in
records

(7) That entries made in the records of the clearing corporation as provided in subsection (1) are not appropriate does not affect the validity or effect of the entries nor the liabilities or obligations of the clearing corporation to any person adversely affected thereby. R.S.O. 1970, c. 53, s. 91.

Registration

90.—(1) Where a security in registered form is presented to the issuer with a request to register a transfer, the issuer is under a duty to register the transfer as requested if, Duty of issuer to register transfer

- (a) the security is endorsed by the appropriate person or persons;
- (b) reasonable assurance is given that those endorsements are genuine and effective;
- (c) the issuer has no notice of an adverse claim;
- (d) any applicable law relating to the collection of taxes has been complied with; and
- (e) the transfer is not contrary to applicable restrictions or is not of a share in respect of which the corporation is entitled to a lien and exercises its right to refuse registration.

(2) Where an issuer is under a duty to register a transfer of a security, the issuer is also liable to the person presenting it for registration or his principal for loss resulting from any unreasonable delay in registration or from failure or refusal to register the transfer. Liability for undue delay R.S.O. 1970, c. 53, s. 92.

91.—(1) For the purpose of obtaining reasonable assurance that each necessary endorsement required by section 79 is genuine and effective, the issuer may require a guarantee of the signature of the person endorsing or, where such guarantee is lacking, Assurance required by issuer

- (a) where the endorsement is by an agent, appropriate assurance of authority to sign;
- (b) where the endorsement is by fiduciary, or a successor on whom title or control vests on the death of the holder, appropriate evidence of appointment or incumbency;
- (c) where there is more than one fiduciary or successor, reasonable assurance that all who are required to sign have done so; and
- (d) where the endorsement is by a person not covered by a person mentioned in this section, assurance appropriate to the case equivalent as nearly as may be to those required by this section.

Sufficiency
of guarantee

(2) A "guarantee of the signature" in subsection (1) means a guarantee signed by or on behalf of a person reasonably believed by the issuer to be responsible, and the issuer may adopt standards with respect to responsibility if such standards are not manifestly unreasonable.

Appropriate
evidence of
appoint-
ment or
incumbency

(3) For the purposes of subsection (1), "appropriate evidence of appointment or incumbency" means,

- (a) if the fiduciary or successor claims by virtue of a grant of probate or letters of administration or other instrument issued or purporting to be issued by a court or other judicial authority in any jurisdiction, production of the same or a notarial copy thereof or extract therefrom or a certificate of such grant under the seal of such court or other authority without any proof of the authenticity of such seal or other proof whatever and deposit of a copy thereof;
- (b) if the fiduciary or successor claims by virtue of the laws of any jurisdiction in which any transmission or vesting of title or control takes place without a grant of probate or letters of administration or other court or judicial action, production and deposit of proof thereof in accordance with the laws of such jurisdiction and reasonable evidence of such laws; or
- (c) if the net value of the estate of the deceased holder is less than \$1,500 or if the market value of the securities is less than \$300, proof thereof to the reasonable satisfaction of the issuer,

together with, in any such event, production and deposit by one or more of the fiduciaries or successors of a sworn statement showing the nature of the transmission or vesting of title or control, as the case may be.

Other
contents
not notice

(4) The issuer is not charged with notice of the contents of any document obtained for the purposes of subsection (3) except to the extent that the contents relate directly to the appointment or incumbency. R.S.O. 1970, c. 53, s. 93.

Notice of
additional
assurances

(5) If an issuer demands assurance additional to that specified in this section for a purpose other than the purposes of subsection (3) and obtains a copy of a will, trust or partnership agreement, by-law or similar document, the issuer shall be deemed to have notice of all matters contained therein affecting the transfer. 1972, c. 138, s. 20.

92.—(1) An issuer to whom a security is presented for registration has notice of an adverse claim if, Notice to issuer of adverse claims

- (a) the issuer receives written notice of the adverse claim evidenced by an order or judgment of a court of competent jurisdiction and the notice is received at a time and in a manner that affords the issuer a reasonable opportunity to act on it before the issuance of a new, reissued or reregistered security and the notice identifies the registered owner, the claimant and the issue of which the security is a part, and provides an address for communications directed to the claimant; or
- (b) the issuer is given written notice by the registered owner that the security is lost, apparently destroyed or wrongfully taken.

(2) An issuer shall be deemed not to have notice of an adverse claim otherwise than as provided in subsection (1). Idem

(3) The issuer may register a transfer where he has notice of an adverse claim if he has given notice to both the registered owner and the claimant by registered mail to the address provided by them for the purpose that the security has been presented for registration by a named person and that the transfer will be registered unless prior to the expiration of thirty days from the date of mailing the notification there is filed with the issuer, Registration after notice

- (a) an appropriate restraining order, injunction or other process issued from a court of competent jurisdiction; or
- (b) an indemnity bond sufficient in the issuer's opinion to protect the issuer and any transfer agent, registrar or other agent of the issuer from any loss which it or they may suffer by complying with the adverse claim. R.S.O. 1970, c. 53, s. 94.

(4) A written notice of adverse claim received by an issuer is effective for only twelve months from the date when it was received unless the notice is renewed in writing. 1972, c. 138, s. 21. Limitation for notices

93.—(1) The issuer is not liable to the owner or any other person suffering loss as a result of the registration of a transfer of a security if, Liability of issuer

- (a) there were on or with the security the necessary endorsements; and

- (b) the issuer had not notice of adverse claims or, having had notice thereof, proceeded to register the transfer in accordance with subsection 92 (3).

Idem

(2) Where an issuer has registered a transfer of a security to a person not entitled to it, the issuer on demand shall deliver a like security to the true owner unless,

- (a) the registration was pursuant to subsection (1);
- (b) the owner is precluded from asserting any claim for registering the transfer under subsection 94 (1); or
- (c) such delivery would result in overissue, in which case the issuer's liability is governed by section 63. R.S.O. 1970, c. 53, s. 95.

Loss, etc.,
securities

94.—(1) Where a security has been lost, apparently destroyed or wrongfully taken and the owner fails to notify the issuer of that fact in writing before the issuer registers a transfer of the security, the owner is precluded from asserting against the issuer any claim for registering the transfer under section 93 or any claim to a new security under this section.

Replacing
lost, etc.,
securities

(2) Where the owner of a security claims that the security has been lost, apparently destroyed or wrongfully taken, the issuer shall issue a new security in place of the original security if the owner,

- (a) so requests before the issuer has notice that the security has been acquired by a purchaser for value without notice of an adverse claim;
- (b) files with the issuer an indemnity bond sufficient in the issuer's opinion to protect the issuer and any transfer agent, registrar or other agent of the issuer from any loss that it or they may suffer by complying with the request to issue a new security; and
- (c) satisfies any other reasonable requirements imposed by the issuer.

Rights of
bona fide
purchaser

(3) If, after the issue of the new security, a purchaser for value without notice of an adverse claim of the original security presents it for registration of transfer, the issuer shall register the transfer unless registration would result

in overissue in which event the issuer's liability is governed by section 63.

(4) In addition to any rights on the indemnity bond, the issuer may recover the new security from the person to whom it was issued or any person taking under him except a purchaser for value without notice of an adverse claim. R.S.O. 1970, c. 53, s. 96.

95.—(1) An authenticating trustee, transfer agent, registrar or other agent for an issuer has in respect of the issue, registration of transfer, and cancellation of a security of the issuer,

- (a) a duty to the issuer and to the holder or owner to exercise good faith and due diligence; and
- (b) the same obligations to the holder or owner of a security and the same rights, privileges and immunities as the issuer. 1972, c. 138, s. 22.

(2) Notice to an authenticating trustee, transfer agent, registrar or other such agent is notice to the issuer with respect to the functions performed by the agent. R.S.O. 1970, c. 53, s. 97 (2).

SHAREHOLDERS

Rights

96.—(1) Where a person is shown on the records of a corporation as holding a share as a personal representative, the receipt by such person is a valid and binding discharge to the corporation for any payment or other distribution made in respect of the share whether notice of any trust has been given to the corporation or not, and the corporation is not bound to see to the application of such payment or other distribution.

(2) Where its own shares are purchased by a corporation under subsection 38 (2) or subsection 98 (2) or accepted by a corporation under section 36 or 41 and are not thereby cancelled, no person is entitled to receive notice of or to vote at meetings of shareholders or to receive any payment or other distribution made in respect of the shares until such shares are resold. 1972, c. 138, s. 23.

97.—(1) Subject to subsection (2), a shareholder of a corporation may maintain an action in a representative

capacity for himself and all other shareholders of the corporation suing for and on behalf of the corporation to enforce any right, duty or obligation owed to the corporation under this Act or under any other statute or rule of law or equity that could be enforced by the corporation itself, or to obtain damages for any breach of any such right, duty or obligation.

Leave

(2) An action under subsection (1) shall not be commenced until the shareholder has obtained an order of the court permitting the shareholder to commence the action.

Application
for order to
commence
action

(3) A shareholder may, upon at least seven days notice to the corporation, apply to the court for an order referred to in subsection (2), and, if the court is satisfied that,

- (a) the shareholder was a shareholder of the corporation at the time of the transaction or other event giving rise to the cause of action;
- (b) the shareholder has made reasonable efforts to cause the corporation to commence or prosecute diligently the action on its own behalf; and
- (c) the shareholder is acting in good faith and it is *prima facie* in the interests of the corporation or its shareholders that the action be commenced,

the court may make the order upon such terms as the court thinks fit, except that the order shall not require the shareholder to give security for costs.

Application
for order
for interim
costs

(4) At any time or from time to time while an action commenced under this section is pending, the plaintiff may apply to the court for an order for the payment to the plaintiff by the corporation of reasonable interim costs, including solicitor's and counsel fees and disbursements, for which interim costs the plaintiff shall be accountable to the corporation if the action is dismissed with costs on final disposition at the trial or on appeal.

Trial and
judgment

(5) An action commenced under this section shall be tried by the court and its judgment or order in the cause, unless the action is dismissed with costs, may include a provision that the reasonable costs of the action are payable to the plaintiff by the corporation or other defendants taxed as between a solicitor and his own client.

Discon-
tinuance and
settlement

(6) An action commenced under this section shall not be discontinued, settled or dismissed for want of prosecution

without the approval of the court and, if the court determines that the interests of the shareholders or any class thereof may be substantially affected by such discontinuance, settlement or dismissal, the court, in its discretion, may direct that notice in manner, form and content satisfactory to the court shall be given, at the expense of the corporation or any other party to the action as the court directs, to the shareholders or class thereof whose interests the court determines will be so affected. R.S.O. 1970, c. 53, s. 99.

98.—(1) If, at a meeting of shareholders or of any class of shareholders of a corporation that is not offering its shares to the public, Rights of dissenting shareholders

- (a) a resolution passed by the directors authorizing the sale, lease, exchange or other disposition of all or substantially all the property of the corporation is confirmed with or without variation by the shareholders;
- (b) a resolution passed by the directors authorizing an amendment to the articles to delete therefrom a provision restricting the transfer of the shares of the corporation or of any class thereof is confirmed with or without variation by the shareholders;
- (c) a resolution approving an agreement for the amalgamation of the corporation with one or more other corporations is confirmed by the shareholders; or
- (d) a resolution passed by the directors under section 190 is confirmed by the shareholders,

any shareholder who has voted against the confirmation of the resolution may within ten days after the date of the meeting give notice in writing to the corporation requiring it to purchase his shares. R.S.O. 1970, c. 53, s. 100 (1); 1972, c. 138, s. 24 (1, 2).

(2) Within ninety days from,

- (a) the date of the completion of the sale, lease, exchange or other disposition; On amalgamation or change of jurisdiction
- (b) the date set forth in the certificate of amendment or amalgamation; or
- (c) the date of delivery to the Minister of a request in writing for his authorization under section 190,

the corporation, or amalgamated corporation, shall purchase the shares of every shareholder who has given notice under subsection (1), and every such shareholder shall sell his shares to the corporation. 1972, c. 138, s. 24 (3).

Saving

(3) The corporation shall not purchase any shares under subsection (2) if it is insolvent or if the purchase would render it insolvent.

Price of shares

(4) The price and terms of the purchase of such shares shall be as may be agreed upon by the corporation and the dissenting shareholder, but, if they fail to agree, the price and terms shall be as determined by the court on the application of the dissenting shareholder. R.S.O. 1970, c. 53, s. 100 (3, 4).

Sale of shares

(5) If the sale, lease, exchange or other disposition is not completed, the certificate of amendment or amalgamation is not issued, or the authorization of the Minister is not given, the rights of the dissenting shareholder under this section cease and the corporation shall not purchase the shares of such shareholder under this section. 1972, c. 138, s. 24 (4), *part*.

Requisition for by-law or resolution

99.—(1) The persons holding equity shares carrying at least 10 per cent of the voting rights attached to all equity shares of the corporation for the time being outstanding may requisition the directors to call a meeting of the directors for the purpose of passing any by-law or resolution that may properly be passed at a meeting of the directors duly called, constituted and held for that purpose.

Form of requisition

(2) The requisition shall set out the by-law or resolution, as the case may be, that is required to be passed at the meeting and shall be signed by the requisitionists and deposited at the head office of the corporation, and may consist of several documents in like form, each signed by one or more requisitionists.

Meeting of directors

(3) Upon deposit of the requisition, the directors shall forthwith call a meeting of the directors for the purpose of passing the by-law or resolution, as the case may be, set out in the requisition. R.S.O. 1970, c. 53, s. 101 (1-3).

Meeting of shareholders

(4) Where the directors do not within twenty-one days from the date of the despoit of the requisition,

(a) call and hold such a meeting and pass such a by-law or resolution; and

- (b) if the by-law or resolution requires confirmation at a general meeting of the shareholders before it is effective, call a general meeting of the shareholders for the purpose of confirming the by-law or resolution,

any of the requisitionists may call a general meeting of the shareholders for the purpose of passing such by-law or resolution, and the meeting shall be held within sixty days from the date of the deposit of the requisition.

R.S.O. 1970, c. 53, s. 101 (4); 1972, c. 138, s. 25 (1).

(5) A meeting of the shareholders called under sub- Notice
section (4) shall be called as nearly as possible in the same manner as meetings of shareholders are called under the by-laws, but, if the by-laws provide for more than twenty-one days notice of meetings, twenty-one days notice is sufficient for the calling of the meeting.

(6) Where a by-law or resolution is passed at a meeting Validity of
by-law or
resolution
of the shareholders called under subsection (4), either as set out in the requisition or as varied at the meeting, it is as valid and effective as if it had been passed at a meeting of the directors duly called, constituted and held for that purpose and confirmed at a meeting of the shareholders duly called, constituted and held for that purpose, and, if the resolution or by-law is passed by at least two-thirds of the votes cast at the meeting of the shareholders called under subsection (4), it shall be deemed to be a special resolution or special by-law, as the case may be, for the purposes of this Act.

(7) The corporation shall,

Repayment
of expenses

- (a) reimburse the requisitionists for any reasonable expenses incurred by them by reason of the failure of the directors to act in accordance with subsections (3) and (4); and
- (b) retain out of any moneys due or to become due, by way of fees or other remuneration for their services, to such of the directors as were in default, an amount equal to the amount the requisitionists were reimbursed,

unless, at the meeting called under subsection (4), the shareholders, by a majority of the votes cast, reject the reimbursement of the requisitionists. R.S.O. 1970, c. 53, s. 101 (5-7).

New
requisition
on same
subject

(8) Where a by-law or resolution in respect of which a meeting of directors is requisitioned under this section is not passed or confirmed at a meeting of the shareholders, no requisition for a meeting of directors in respect of a similar by-law or resolution shall be made for a period of at least two years. 1972, c. 138, s. 25 (2).

Circulation
of share-
holders'
resolutions,
etc.

100.—(1) On the requisition in writing of the persons holding equity shares carrying at least 5 per cent of the voting rights attached to all equity shares of the corporation for the time being outstanding, the directors shall,

- (a) give to the shareholders entitled to notice of the next meeting of shareholders notice of any resolution that may properly be moved and is intended to be moved at that meeting; or
- (b) circulate to the shareholders entitled to vote at the next meeting of shareholders a statement of not more than 1,000 words with respect to the matter referred to in any proposed resolution or with respect to the business to be dealt with at that meeting.

Notice

(2) The notice or statement or both, as the case may be, shall be given or circulated by sending a copy thereof to each shareholder entitled thereto in the same manner and at the same time as that prescribed by this Act, the articles or the by-laws, for the sending of notice of meetings of shareholders.

Idem

(3) Where it is not practicable to send the notice or statement or both at the same time as the notice of the meeting is sent, the notice or statement or both shall be sent as soon as practicable thereafter.

Deposit of
requisition,
etc.

(4) The directors are not bound under this section to give notice of any resolution or to circulate any statement unless,

- (a) the requisition, signed by the requisitionists, is deposited at the head office of the corporation,
- (i) in the case of a requisition requiring notice of a resolution to be given, not less than twenty-one days before the meeting where the corporation is offering its securities to the public and not less than ten days before the meeting where the corporation is not offering its securities to the public,

(ii) in the case of a requisition requiring a statement to be circulated, not less than fourteen days before the meeting where the corporation is offering its securities to the public and not less than seven days before the meeting where the corporation is not offering its securities to the public; and

(b) there is deposited with the requisition a sum reasonably sufficient to meet the expenses of the corporation in giving effect thereto.

(5) The directors are not bound under this section to circulate any statement if, on the application of the corporation or any other person who claims to be aggrieved, the court is satisfied that the rights conferred by this section are being abused to secure needless publicity for defamatory matter, and on any such application, the court may order the costs of the corporation to be paid in whole or in part by the requisitionists notwithstanding that they are not parties to the application.

Where
directors
not bound
to circulate
statement

(6) No corporation or a director, officer or employee thereof or person acting on its behalf, except a requisitionist, is liable in damages or otherwise by reason only of the giving of a notice or the circulation of a statement, or both, in compliance with this section.

Where no
liability

(7) Notwithstanding anything in the by-laws of the corporation, where the requisitionists have complied with this section, the resolution, if any, mentioned in the requisition shall be dealt with at the meeting to which the requisition relates.

Duty to
deal with
requisitioned
matter

(8) The corporation shall pay to the requisitionists the sum deposited under clause (4) (b) unless at the meeting to which the requisition relates the shareholders by a majority of the votes cast reject the repayment to the requisitionists. R.S.O. 1970, c. 53, s. 102.

Repayment
of expenses

Liabilities

101.—(1) Where the issued capital of a corporation is decreased by an amendment to the articles, each person who was a shareholder on the effective date of the amendment is individually liable to the creditors of the corporation for the debts due on that date to an amount not exceeding the amount of the repayment to him.

Liability
on decrease
of issued
capital

Limitation
of liability

- (2) A person is not liable under subsection (1) unless,
- (a) the corporation has been sued for the debt within six months after the effective date of the amendment and execution has been returned unsatisfied in whole or in part; and
 - (b) he is sued for the debt in a court of competent jurisdiction within two years from the effective date of the amendment.

Idem

(3) After execution has been so returned, the amount due on the execution, not exceeding the amount of the repayment to the person, is the amount recoverable against such person.

Class
actions

(4) Where it is made to appear that there are numerous shareholders who may be liable under this section, the court of competent jurisdiction may permit an action to be brought against one or more of them as representatives of the class and, if the plaintiff establishes his claim as creditor, may make an order of reference and add as parties in the referee's office all such shareholders as may be found, and the referee shall determine the amount that each should contribute towards the plaintiff's claim and may direct payment of the sums so determined.

Shareholder
holding
shares in
fiduciary
capacity

(5) No person holding shares in the capacity of a personal representative and registered on the records of the corporation as a shareholder and therein described as representing in such capacity a named estate, person or trust is personally liable under this section, but the estate, person or trust is subject to all liabilities imposed by this section. R.S.O. 1970, c. 53, s. 103.

Share-
holder's
liability
limited

102. A shareholder of a corporation as such is not answerable or responsible for any act, default, obligation or liability of the corporation, or for any engagement, claim, payment, loss, injury, transaction, matter or thing relating to or connected with the corporation. R.S.O. 1970, c. 53, s. 104.

*Meetings*Place of
meetings

103.—(1) Subject to subsections (2) and (3), the meetings of the shareholders shall be held at the place where the head office of the corporation is located.

Exception

(2) Where the by-laws of the corporation so provide, the meetings of the shareholders may be held at any place within Ontario.

(3) Where the articles of the corporation so provide, the ^{Idem} meetings of the shareholders may be held at one or more places outside Ontario specified therein. R.S.O. 1970, c. 53, s. 105.

104.—(1) Subject to subsection (2) and in the absence of ^{Shareholders'} other provisions in that behalf in the articles or by-laws of ^{meetings} the corporation,

- (a) notice of the time and place for holding a meeting of the shareholders shall be given to each person who is entitled to notice of meetings and who on the record date for notice appears on the records of the corporation as a shareholder and to each director by sending the notice by prepaid mail to his latest address as shown on the records of the corporation;
- (b) all questions proposed for the consideration of the shareholders at a meeting of shareholders shall be determined by the majority of the votes cast, and the chairman presiding at the meeting has a second or casting vote in case of an equality of votes;
- (c) the chairman presiding at a meeting of shareholders may, with the consent of the meeting and subject to such conditions as the meeting decides, adjourn the meeting from time to time and from place to place;
- (d) the president or, in his absence, a vice-president who is a director shall preside as chairman at a meeting of shareholders, but, if there is no president or such a vice-president or if at a meeting neither of them is present within fifteen minutes after the time appointed for the holding of the meeting, the shareholders present shall choose a person from their number to be the chairman;
- (e) unless a poll is demanded, an entry in the minutes of a meeting of shareholders to the effect that the chairman declared a motion to be carried is admissible in evidence as *prima facie* proof of the fact without proof of the number or proportion of votes recorded in favour of or against the motion. R.S.O. 1970, c. 53, s. 106 (1); 1972, c. 138, s. 26.

(2) The articles or by-laws of the corporation shall not ^{Notice} provide for fewer than,

- (a) twenty-one days notice in the case of a corporation that is offering its securities to the public; or
- (b) ten days notice in the case of a corporation that is not offering its securities to the public,

for meetings of shareholders but in no case shall notice be given more than fifty days before the date of the meeting and the articles or by-laws shall not provide that notice may be given otherwise than individually.

Poll

(3) If a poll is demanded, it shall be taken in such manner as the by-laws prescribe, and, if the by-laws make no provision therefor, then as the chairman may direct. R.S.O. 1970, c. 53, s. 106 (2, 3).

Annual meetings

105.—(1) A corporation shall hold an annual meeting of its shareholders not later than eighteen months after its incorporation and subsequently not more than fifteen months after the holding of the last preceding annual meeting and at such meeting any shareholder shall have an opportunity to raise any matter relevant to the affairs and business of the corporation. R.S.O. 1970, c. 53, s. 107.

Idem

(2) Where a corporation has only one shareholder and, on or before the date the annual meeting is required to be held, the action required to be taken at the annual meeting is completed in accordance with subsection 22 (4), the action so completed shall be deemed to have been taken at an annual meeting of the corporation and such annual meeting shall be deemed to have been held on the date of the completion. 1971, c. 26, s. 18.

General meetings

106. The directors may at any time call a general meeting of the shareholders for the transaction of any business, the general nature of which is specified in the notice calling the meeting. R.S.O. 1970, c. 53, s. 108.

Requisition for shareholders' meeting

107.—(1) The persons holding equity shares carrying at least 5 per cent of the voting rights attached to all equity shares of the corporation for the time being outstanding may requisition the directors to call a general meeting of the shareholders for any purpose that is connected with the affairs of the corporation and that is not inconsistent with this Act.

Requisition

(2) The requisition shall state the general nature of the business to be presented at the meeting and shall be signed by the requisitionists and deposited at the head office of the corporation and may consist of several documents in like form, each signed by one or more requisitionists.

(3) Upon deposit of the requisition, the directors shall forthwith call a general meeting of the shareholders for the transaction of the business stated in the requisition.

Duty of directors to call meeting

(4) If the directors do not within thirty days from the date of the deposit of the requisition call and hold the meeting, any of the requisitionists may call the meeting, which shall be held within sixty days from the date of the deposit of the requisition.

Where requisitionists may call meeting

(5) A meeting called under this section shall be called as nearly as possible in the same manner as meetings of shareholders are called under the by-laws, but, if the by-laws provide for more than twenty-one days notice of meetings, twenty-one days notice is sufficient for the calling of the meeting.

Calling of meeting

(6) The corporation shall,

Repayment of expenses

(a) reimburse the requisitionists for any reasonable expenses incurred by them by reason of the action taken by them under subsection (4); and

(b) retain out of any moneys due or to become due, by way of fees or other remuneration for their services, to such of the directors as were in default, an amount equal to the amount the requisitionists were reimbursed,

unless, at the meeting, the shareholders by a majority of the votes cast reject the reimbursement of the requisitionists. R.S.O. 1970, c. 53, s. 109.

108. Notwithstanding section 107, upon application by a shareholder of a corporation, the court, if satisfied that the application is made in good faith and that it is *prima facie* in the interests of the corporation or its shareholders that the meeting be held on requisition, may make an order, upon such terms as to security for the costs of holding the meeting or otherwise as to the court seem fit, requiring the directors to call a general meeting of the shareholders for any purpose that is connected with the affairs of the corporation and that is not inconsistent with this Act. R.S.O. 1970, c. 53, s. 110.

Requisition by court order

109. If for any reason it is impracticable to call a meeting of shareholders of a corporation in any manner in which meetings of shareholders may be called or to conduct the meeting in the manner prescribed by this Act, the articles or by-laws, the court may, on the application of a director

Court may direct method of holding meetings

or a shareholder who would be entitled to vote at the meeting, order a meeting to be called, held and conducted in such manner as the court thinks fit, and any meeting called, held and conducted in accordance with the order shall for all purposes be deemed to be a meeting of shareholders of the corporation duly called, held and conducted. R.S.O. 1970, c. 53, s. 111.

Record
dates

110.—(1) The by-laws may fix in advance or may authorize the directors to fix in advance a time and date as the record date,

(a) for the determination of the shareholders entitled to notice of meetings of the shareholders, which record date for notice shall not be more than fifty days before the date of the meeting and not fewer than the minimum number of days for notice of the meeting and where no such record date for notice is fixed, the record date for notice shall be at the close of business on the day next preceding the day on which notice is given or sent; and

(b) for the determination of the shareholders entitled to vote at meetings of the shareholders, which record date for voting shall not be more than two days, excluding Saturdays and holidays, before the date of the meeting and where no such record date for voting is fixed, the record date for voting shall be the time of the taking of the vote; and

(c) for the determination of the shareholders entitled to receive the financial statement of the corporation pursuant to subsection 175 (1), which record date for the financial statement shall be not more than fifty days and not fewer than twenty-one days before the date of the annual meeting of the shareholders and where no such record date is fixed, the record date shall be at the close of business on the day next preceding the day on which the financial statement is given or sent. 1972, c. 138, s. 27.

Voting
rights

(2) The holder of each common share and, unless the articles condition, restrict, limit or prohibit the right to vote, the holder of each special share who, on the record date for voting, appears on the records of the corporation as a shareholder is entitled to one vote for each share held by him at all meetings of the shareholders of the corporation, or such greater number of votes for each share respecting such matters as the articles provide. R.S.O. 1970, c. 53, s. 112 (2).

111.—(1) Where a person holds shares as a personal representative, that person or his proxy is the person entitled to vote at all meetings of shareholders in respect of the shares so held by him. Personal
representative

(2) Where a person mortgages or hypothecates his shares, that person or his proxy is the person entitled to vote at all meetings of shareholders in respect of such shares unless, in the instrument creating the mortgage or hypothec, he has expressly empowered the person holding the mortgage or hypothec to vote in respect of such shares, in which case, subject to the articles, such holder or his proxy is the person entitled to vote in respect of the shares. R.S.O. 1970, c. 53, s. 113. Mortgagee,
etc.

112. Where two or more persons hold the same share or shares jointly, any one of such persons present at a meeting of shareholders has the right in the absence of the other or others to vote in respect of such share or shares, but, if more than one of such persons are present or represented by proxy and vote, they shall vote together as one on the share or shares jointly held by them. R.S.O. 1970, c. 53, s. 114. Joint
shareholders

113. In this section and in sections 114 to 119,

Interpre-
tation

- (a) “form of proxy” means a written or printed form that, upon completion and execution by or on behalf of a shareholder, becomes a proxy;
- (b) “information circular” means the circular referred to in subsection 116 (1);
- (c) “proxy” means a completed and executed form of proxy by means of which a shareholder has appointed a person as his nominee to attend and act for him and on his behalf at a meeting of shareholders;
- (d) “solicit” and “solicitation” include,
 - (i) any request for a proxy whether or not accompanied by or included in a form of proxy,
 - (ii) any request to execute or not to execute a form of proxy or to revoke a proxy,
 - (iii) the sending or delivery of a form of proxy or other communication to a shareholder

under circumstances reasonably calculated to result in the procurement, withholding or revocation of a proxy, and

- (iv) the sending or delivery of a form of proxy to a shareholder under section 115,

but do not include;

- (v) the sending or delivery of a form of proxy to a shareholder in response to an unsolicited request made by him or on his behalf, or
- (vi) the performance by any person of ministerial acts or professional services on behalf of a person soliciting a proxy. R.S.O. 1970, c. 53, s. 115.

Proxies

114.—(1) Every shareholder, including a shareholder that is a body corporate, entitled to vote at a meeting of shareholders may by means of a proxy appoint a person, who need not be a shareholder, as his nominee to attend and act at the meeting in the manner, to the extent and with the power conferred by the proxy.

Execution
and
termination

(2) A proxy shall be executed by the shareholder or his attorney authorized in writing or, if the shareholder is a body corporate, under its corporate seal or by an officer or attorney thereof duly authorized, and ceases to be valid one year from its date.

Contents

(3) In addition to the requirements, where applicable, of section 118, a proxy shall contain the date thereof and the appointment and name of the nominee and may contain a revocation of a former proxy and restrictions, limitations or instructions as to the manner in which the shares in respect of which the proxy is given are to be voted or that may be necessary to comply with the laws of any jurisdiction in which the shares of the corporation are listed on a stock exchange or a restriction or limitation as to the number of shares in respect of which the proxy is given.

Revocation

(4) In addition to revocation in any other manner permitted by law, a proxy may be revoked by an instrument in writing executed by the shareholder or by his attorney authorized in writing or, if the shareholder is a body corporate, under its corporate seal or by an officer or attorney thereof duly authorized, and deposited either at the head office of the corporation at any time up to and including the last business day preceding the day of the meeting, or

any adjournment thereof, at which the proxy is to be used or with the chairman of such meeting on the day of the meeting, or adjournment thereof, and upon either of such deposits the proxy is revoked.

(5) The directors may by resolution fix a time not exceeding forty-eight hours, excluding Saturdays and holidays, preceding any meeting or adjourned meeting of shareholders before which time proxies to be used at that meeting must be deposited with the corporation or an agent thereof, and any period of time so fixed shall be specified in the notice calling the meeting or in the information circular relating thereto. R.S.O. 1970, c. 53, s. 116.

Time limit
for deposit

115. Subject to section 117, the management of a corporation shall, concurrently with giving notice of a meeting of shareholders of the corporation, send by prepaid mail to each shareholder who is entitled to vote at such meeting at his latest address as shown on the records of the corporation a form of proxy that complies with section 118 for use at the meeting. R.S.O. 1970, c. 53, s. 117; 1972, c. 138, s. 28.

Mandatory
solicitation
of proxies

116.—(1) Subject to subsection (2) and section 117, no person shall solicit proxies unless,

Information
circular

(a) in the case of a solicitation by or on behalf of the management of a corporation, an information circular, either as an appendix to or as a separate document accompanying the notice of the meeting, is sent by prepaid mail to each shareholder of the corporation whose proxy is solicited at his latest address as shown on the records of the corporation; or

(b) in the case of any other solicitation, the person making the solicitation, concurrently with or prior thereto, delivers or sends an information circular to each shareholder of the corporation whose proxy is solicited. R.S.O. 1970, c. 53, s. 118 (1).

(2) Subsection (1) does not apply to,

Application
of subs. (1)

(a) any solicitation, otherwise than by or on behalf of the management of a corporation, where the total number of shareholders whose proxies are solicited is not more than fifteen;

(b) any solicitation by a person made under section 48 of the *Securities Act*; and

R.S.O. 1980,
c. 466

- (c) any solicitation by a person in respect of shares of which he is the beneficial owner. R.S.O. 1970, c. 53, s. 118 (2); 1978, c. 49, s. 5.

Untrue
solicitations
an offence

- (3) Section 247 applies to a solicitation that is subject to this section by means of a form of proxy, information circular or other communication. R.S.O. 1970, c. 53, s. 118 (3).

Where
ss. 115, 116 (1)
apply

- 117.**—(1) Section 115 and subsection 116 (1) apply only to a corporation that is offering its securities to the public.

Exemption
orders

- (2) Upon the application of any interested person, the Commission may, if satisfied that in the circumstances of the particular case there is adequate justification for so doing, make an order, on such terms and conditions as seem to it just and expedient, exempting, in whole or in part, any person from the requirements of section 115 or from the requirements of subsection 116 (1). R.S.O. 1970, c. 53, s. 119.

Special
form of
proxy

- 118.** Where section 115 or 116 applies to a solicitation of proxies,

- (a) the form of proxy sent to a shareholder by a person soliciting proxies,

- (i) shall indicate in bold-face type or other conspicuous manner whether or not the proxy is solicited by or on behalf of the management of the corporation, and

- (ii) shall provide a specifically designated blank space for dating the form of proxy;

- (b) the form of proxy shall provide means whereby the person whose proxy is solicited is afforded an opportunity to specify that the shares registered in his name shall be voted by the nominee in favour of or against, in accordance with such person's choice, each matter or group of related matters identified therein or in the information circular as intended to be acted upon, other than the appointment of auditors and the fixing of their remuneration and the election of directors, but a proxy may confer discretionary authority with respect to matters as to which a choice is not so specified by such means if the form of proxy or the information circular states in bold-face type or other conspicuous manner how it is intended to vote the shares represented by the proxy in each such case;

(c) a proxy may confer discretionary authority with respect to,

- (i) amendments or variations to matters identified in the notice of meeting, or
- (ii) other matters that may properly come before the meeting,

but only if,

- (iii) the person by whom or on whose behalf the solicitation is made is not aware a reasonable time prior to the time the solicitation is made that any such amendments, variations or other matters are to be presented for action at the meeting, and
- (iv) a specific statement is made in the information circular or in the form of proxy that the proxy is conferring such discretionary authority;

(d) no proxy shall confer authority,

- (i) to vote for the election of any person as a director of the corporation unless a *bona fide* proposed nominee for such election is named in the information circular, or
- (ii) to vote at any meeting other than the meeting specified in the notice of meeting or any adjournment thereof;

(e) the information circular or form of proxy shall state that the shares represented by the proxy will be voted and that, where the person whose proxy is solicited specifies a choice with respect to any matter to be acted upon under clause (b), the shares shall, subject to section 119, be voted in accordance with the specifications so made;

(f) the information circular or form of proxy shall indicate in bold-face type or other conspicuous manner that the shareholder has the right to appoint a person to attend and act for him and on his behalf at the meeting other than the person, if any, designated in the form of proxy, and shall contain instructions as to the manner in which the shareholder may exercise such right; and

- (g) if the form of proxy contains a designation of a named person as nominee, means shall be provided whereby the shareholder may designate in a form of proxy some other person as his nominee for the purpose of subsection 114 (1). R.S.O. 1970, c. 53, s. 120; 1972, c. 138, s. 29.

Where vote
by ballot
not required

119. The chairman at a meeting has the right not to conduct a vote by way of ballot on any matter or group of matters in connection with which the form of proxy has provided a means whereby the person whose proxy is solicited may specify how such person wishes the shares registered in his name to be voted unless,

- (a) a poll is demanded by any shareholder present at the meeting in person or represented thereat by proxy; or
- (b) proxies requiring that the shares represented thereby be voted against what would otherwise be the decision of the meeting in relation to such matters or group of matters total more than 5 per cent of all the voting rights attaching to all the shares entitled to be voted and be represented at the meeting. 1971, c. 26, s. 19.

DIRECTORS AND OFFICERS

Directors

Board of
directors

120.—(1) Every corporation shall have a board of directors however designated.

Composition

(2) The board of directors shall consist of a fixed number of directors,

- (a) in the case of a corporation that is not offering its securities to the public, of at least one; and
- (b) in the case of a corporation that is offering its securities to the public, of not fewer than three, of whom at least two shall not be officers or employees of the corporation or of any affiliate of the corporation. R.S.O. 1970, c. 53, s. 122.

Directors
to be
resident
Canadians

(3) A majority of directors on the board of directors of every corporation other than a non-resident corporation shall be resident Canadians. 1974, c. 26, s. 2.

121.—(1) Each of the persons named as first directors^{First directors} in the articles of a corporation is a director of the corporation until replaced by a person duly elected or appointed in his stead.

(2) The first directors of a corporation have all the powers^{Idem} and duties and are subject to all the liabilities of directors. R.S.O. 1970, c. 53, s. 123.

122.—(1) A corporation may by special by-law increase^{Change in number of directors} or, subject to subsection 120 (2), decrease the number of its directors as set out in its articles.

(2) The corporation shall file with the Minister a certified^{Filing of by-law} copy of the by-law within ten days after the by-law has been confirmed by the shareholders.

(3) Failure to comply with subsection (2) does not affect the^{Validity} validity of the by-law. R.S.O. 1970, c. 53, s. 124.

123.—(1) No person under eighteen years of age shall^{Age of directors} be a director of a corporation. R.S.O. 1970, c. 53, s. 125 (1); 1971, c. 98, s. 4, Sched., par. 4.

(2) No undischarged bankrupt or mentally incompetent^{Qualifications} person shall be a director, and, if a director becomes a bankrupt or a mentally incompetent person, he thereupon ceases to be a director.

(3) A person who is elected or appointed a director is^{Consent} not a director unless,

(a) he was present at the meeting when he was elected or appointed and did not refuse at the meeting to act as director;

(b) where he was not present at the meeting when he was elected or appointed, he consented to act as director in writing before his election or appointment or within ten days thereafter.

(4) For the purposes of subsection (3), a person who is^{Idem} elected or appointed as director and refuses under clause (3) (a) or fails to consent under clause (3) (b) shall be deemed not to have been elected or appointed as a director. R.S.O. 1970, c. 53, s. 125 (2-4).

124.—(1) The directors shall be elected by the share-^{Election of directors}holders in general meeting, and the election shall be by ballot

or in such other manner as the by-laws of the corporation prescribe.

Idem

(2) The election of directors shall take place yearly, or at such other interval not exceeding five years as is provided by the articles, and all the directors then in office shall retire, but, if qualified, are eligible for re-election.

Continuance
in office

(3) If an election of directors is not held within the prescribed period, the directors continue in office until their successors are elected.

Rotation
of directors

(4) The articles may provide for the election and retirement of directors in rotation, but in that case no director shall be elected for a term of more than five years and at least three directors shall retire from office in each year. R.S.O. 1970, c. 53, s. 126.

Staggered
terms

(5) It shall not be necessary for all directors to hold office for the same term. 1972, c. 138, s. 31.

Cumulative
voting for
directors

125. The articles or a special by-law of a corporation may provide that,

- (a) every shareholder entitled to vote at an election of directors has the right to cast thereat a number of votes equal to the number of votes attached to the shares held by him multiplied by the number of directors to be elected, and he may cast all such votes in favour of one candidate or distribute them among the candidates in such manner as he sees fit; and
- (b) where he has voted for more than one candidate without specifying the distribution of his votes among such candidates, he shall be deemed to have divided his votes equally among the candidates for whom he voted. R.S.O. 1970, c. 53, s. 127.

Vacancies

126.—(1) Subject to subsections (2), (3) and (4), where a vacancy occurs in the board and a quorum of directors remains, the directors remaining in office may appoint a qualified person to fill the vacancy for the remainder of the term but the articles may provide that such vacancy may only be filled by election at a general meeting of the shareholders duly called for that purpose.

Increase

(2) Where the number of directors is increased, the vacancies resulting from such increase shall only be filled by election at a general meeting of the shareholders duly called for that purpose.

(3) Where part of the board of directors has been elected by the holders of the shares of a class of special shares as provided in clause 26 (1) (d), and a vacancy occurs in that part of the board, the remaining directors or director, if any, in that part of the board may appoint a qualified person to fill the vacancy for the remainder of the term, and, if there is no such remaining director, the holders of that class of shares at a meeting thereof that may be called by any holder of shares of that class may elect a qualified person to fill the vacancy for the remainder of the term but the articles may provide that such vacancy may only be filled by election at a general meeting of the holders of that class of shares duly called for that purpose. 1972, c. 138, s. 32.

Where
elected by
class of
shareholders

(4) When there is not a quorum of directors in office, the director or directors then in office shall forthwith call a general meeting of the shareholders to fill the vacancies, and, in default or if there are no directors then in office, the meeting may be called by any shareholder. R.S.O. 1970, c. 53, s. 128 (3).

Idem,
where no
quorum

127. Unless the articles or by-laws otherwise provide, a majority of the board of directors constitutes a quorum, but in no case shall a quorum be less than two-fifths of the board of directors or two directors, whichever is the greater. R.S.O. 1970, c. 53, s. 129.

Quorum of
directors

128.—(1) Subject to subsection (2), the meetings of the board of directors and the executive committee shall be held at the place where the head office of the corporation is located. R.S.O. 1970, c. 53, s. 130 (1).

Place of
meetings

(2) Where the by-laws of the corporation so provide, the meetings of the board of directors and of the executive committee may be held at any place within or outside Ontario, but, except where the corporation is a non-resident corporation, in any financial year of the corporation a majority of the meetings of the board of directors and a majority of the meetings of the executive committee shall be held at a place within Canada. 1974, c. 26, s. 3.

Exception

(3) Subject to the by-laws of the corporation, where all the directors have consented thereto, any director may participate in a meeting of the board of directors or of the executive committee by means of conference telephone or other communications equipment by means of which all persons participating in the meeting can hear each other, and a director participating in a meeting pursuant to this

Meetings by
telephone

subsection shall be deemed for the purposes of this Act to be present in person at that meeting. 1972, c. 138, s. 33 (2).

Place of
meeting by
telephone

(4) If a majority of the directors participating in a meeting held pursuant to subsection (3) are then in Canada, the meeting shall be deemed to have been held in Canada. 1972, c. 138, s. 33 (3).

Calling
meetings
of directors

129.—(1) In addition to any other provision in the articles or by-laws of a corporation for calling meetings of directors, a quorum of the directors may, at any time, call a meeting of the directors for the transaction of any business the general nature of which is specified in the notice calling the meeting.

Notice

(2) In the absence of any other provision in that behalf in the by-laws of the corporation, notice of the time and place for the holding of the meeting called under subsection (1) shall be given to every director of the corporation by sending the notice by prepaid mail ten days or more before the date of the meeting to his latest address as shown on the records of the corporation. R.S.O. 1970, c. 53, s. 131.

Duties

130.—(1) The board of directors shall manage or supervise the management of the affairs and business of the corporation. R.S.O. 1970, c. 53, s. 132 (1).

Conduct of
business

(2) Subject to section 131 and subsection 22 (1), no business of a corporation shall be transacted by its board of directors except at a meeting of directors at which a quorum of the board is present and, except where the corporation is a non-resident corporation, at which a majority of the directors present are resident Canadians. 1974, c. 26, s. 4.

Idem

(3) Where there is a vacancy or vacancies in the board of directors, the remaining directors may exercise all the powers of the board so long as a quorum of the board remains in office. R.S.O. 1970, c. 53, s. 132 (3).

Executive
committee

131.—(1) Where the number of directors of a corporation is more than six, and if authorized by a special by-law, the directors may elect from among their number an executive committee consisting of not fewer than three of whom, except where the corporation is a non-resident corporation, a majority shall be resident Canadians and the directors may delegate to the executive committee any powers of the board of directors, subject to the restrictions, if any, contained in the by-law or imposed from time to time by the directors. 1974, c. 26, s. 5 (1).

(2) An executive committee may fix its quorum, which shall be not less than a majority of its members. R.S.O. 1970, c. 53, s. 133 (2). ^{Quorum}

(3) No business shall be transacted by an executive committee except at a meeting of its members at which a quorum of the executive committee is present and, except where the corporation is a non-resident corporation, at which a majority of the members present are resident Canadians. 1974, c. 26, s. 5 (2). ^{Conduct of business}

132.—(1) Every director of a corporation who has, directly or indirectly, any interest in any contract or transaction to which the corporation or a subsidiary thereof is or is to be a party, other than a contract or transaction in which his interest is limited solely to his remuneration as a director, officer or employee, shall declare his interest in such contract or transaction at a meeting of the directors of the corporation and shall at that time disclose the nature and extent of such interest including, as to any contract or transaction involving the purchase or sale of property by or to the corporation or a subsidiary thereof, the cost of the property to the purchaser and the cost thereof to the seller, if acquired by the seller within five years before the date of the contract or transaction, to the extent to which such interest or information is within his knowledge or control, and shall not vote and shall not in respect of such contract or transaction be counted in the quorum. 1972, c. 138, s. 36 (1), *part*. ^{Disclosure by director of interest in contracts}

(2) Subsection (1) does not require the disclosure of any interest in any contract or transaction unless the interest and the contract or transaction are both material. R.S.O. 1970, c. 53, s. 134 (2). ^{Interest to be material}

(3) The declaration required by this section shall be made at the meeting of the directors at which the proposed contract or transaction is first considered, or if the director is not at the date of the meeting interested in the proposed contract or transaction, at the next meeting of the directors held after he becomes so interested, or if the director becomes interested in a contract or transaction after it is entered into, at the first meeting of the directors held after he becomes so interested, or if a contract or a proposed contract or transaction is one that in the ordinary course of the corporation's business, would not require approval by the directors or shareholders, at the first meeting of the directors held after the director becomes aware of it. 1972, c. 138, s. 36 (1), *part*. ^{When declaration of interest to be made}

Effect of
declaration

(4) If a director has made a declaration and disclosure of his interest in a contract or transaction in compliance with this section and has not voted in respect of the contract or transaction at the meeting of the directors of the corporation, the director, if he was acting honestly and in good faith at the time the contract or transaction was entered into, is not by reason only of his holding the office of director accountable to the corporation or to its shareholders for any profit or gain realized from the contract or transaction, and the contract or transaction, if it was in the best interest of the corporation at the time the contract or transaction was entered into, is not voidable by reason only of the director's interest therein. 1971, c. 26, s. 20.

Confirma-
tion by
shareholders

(5) Notwithstanding anything in this section, a director, if he was acting honestly and in good faith, is not accountable to the corporation or to its shareholders for any profit or gain realized from any such contract or transaction by reason only of his holding the office of director, and the contract or transaction, if it was in the best interest of the corporation at the time it was entered into, is not by reason only of the director's interest therein voidable,

(a) if the contract or transaction is confirmed or approved by at least two-thirds of the votes cast at a general meeting of the shareholders duly called for that purpose; and

(b) if the nature and extent of the director's interest in the contract or transaction are declared and disclosed in reasonable detail in the notice calling the meeting or in the information circular required by section 116. R.S.O. 1970, c. 53, s. 134 (5).

General
notice of
interest

(6) For the purposes of this section, a general notice to the directors by a director declaring that he is a director or officer of or has a material interest in a person that is a party to a contract or proposed contract with the corporation is a sufficient declaration of interest in relation to any contract so made. 1972, c. 138, s. 36 (2).

Liability
of directors
re purchase
of shares

133.—(1) Where any shares of a corporation are acquired by it by redemption, purchase or acceptance for surrender in contravention of this Act or the articles, the directors who voted in favour of or consented to the resolution authorizing the redemption, purchase or acceptance for surrender are jointly and severally liable to the corporation to the extent of the amount paid for the acquisition of the shares.

(2) Where any shares of a corporation are acquired by it by redemption, purchase or surrender in contravention of this Act or the articles,

Application
to court

- (a) any shareholder of the corporation; or
- (b) where the acquisition is in contravention of subsection 37 (1), subsection 38 (3) or section 98 any creditor of the corporation who was a creditor at the time of the acquisition,

may apply to the court within two years of the acquisition, and the court may, if it considers it to be just and equitable under the circumstances, make an order making any shareholder whose shares were acquired liable to the corporation, jointly and severally with the directors, to the extent of the amount paid to him for his shares. R.S.O. 1970, c. 53, s. 135.

134. Where any dividend is declared and paid in contravention of section 146 or 147,

Liability
of directors
re dividends

- (a) the directors who voted in favour of or consented to the resolution authorizing the declaration of the dividend are jointly and severally liable to the corporation to the extent of the amount of the dividend so declared and paid or such part thereof as renders the corporation insolvent or diminishes its capital; and
- (b) any shareholder of the corporation or any creditor of the corporation who was a creditor at the time of the declaration of the dividend may apply to the court within two years of the declaration, and the court may, if it considers it to be just and equitable under the circumstances, make an order making any shareholder to whom the dividend is paid jointly and severally liable with the directors to the extent of the amount of the dividend paid to him. R.S.O. 1970, c. 53, s. 136.

135.—(1) A director who was present at a meeting of the board of directors or an executive committee thereof when,

Consent of
director at
meeting

- (a) the redemption, purchase or acceptance for surrender of shares of the corporation is authorized;
- (b) the declaration and payment of a dividend is authorized; or

- (c) a loan mentioned in section 144 is authorized,
shall be deemed to have consented thereto unless,
- (d) his dissent is entered in the minutes of the meeting;
- (e) he files his written dissent with the person acting as secretary of the meeting before its adjournment;
or
- (f) he delivers or sends his dissent by registered mail to the corporation immediately after the adjournment of the meeting,

and within seven days after complying with clause (d), (e) or (f) he sends a copy of his dissent by registered mail to the Minister. R.S.O. 1970, c. 53, s. 137 (1); 1971, c. 26, s. 21 (1).

Idem

- (2) A director who voted in favour of a matter referred to in subsection (1) is not entitled to dissent under subsection (1). R.S.O. 1970, c. 53, s. 137 (2).

Consent of
director
not at
meeting

- (3) A director who was not present at a meeting of the board of directors or any executive committee thereof when,

- (a) the redemption, purchase or acceptance for surrender of shares of the corporation is authorized;
- (b) the declaration and payment of a dividend is authorized; or
- (c) a loan mentioned in section 144 is authorized,
shall be deemed to have consented thereto unless,
- (d) he delivers or sends to the corporation by registered mail his dissent; or
- (e) he causes his dissent to be filed with the minutes of the meeting,

within seven days after he becomes aware of the authorization referred to in clause (a), (b) or (c) and unless, within seven days after complying with clause (d) or (e), he sends a copy of his dissent by registered mail to the Minister. R.S.O. 1970, c. 53, s. 137 (3); 1971, c. 26, s. 21 (2).

136.—(1) A director is not liable under section 133, 134 ^{Exception to liability} or 144 if, in the circumstances, he discharged his duty to the corporation in accordance with section 142.

(2) The liability imposed by this Act upon a director is in ^{Liability not excluded} addition to any other liability that is by law imposed upon him. R.S.O. 1970, c. 53, s. 138.

137.—(1) The directors of a corporation are jointly and severally liable to the employees of the corporation to whom ^{Liability of directors for wages} the *Master and Servant Act* applies for all debts that become due while they are directors for services performed for the corporation, not exceeding six months wages, and for the vacation pay accrued for not more than twelve months under the *Employment Standards Act*, and the regulations there- ^{R.S.O. 1980, c. 257, 137} under or under any collective agreement made by the corporation.

(2) A director is liable under subsection (1),

^{Limitation of liability}

(a) only if,

(i) the corporation has been sued for the debt within six months after it has become due and execution against the corporation has been returned unsatisfied in whole or in part, or

(ii) the corporation has, within that period gone into liquidation or has been ordered to be wound up or has made an authorized assignment under the *Bankruptcy Act* (Canada), ^{R.S.C. 1970, c. B-3} or a receiving order under the *Bankruptcy Act* (Canada) has been made against it and, in any such case, the claim for the debt has been proved; and

(b) he is sued for the debt while he is a director or within two years after he ceases to be a director.

(3) After execution has been so returned against the ^{Idem} corporation, the amount recoverable against the director is the amount remaining unsatisfied on the execution.

(4) If the claim for the debt has been proved in liquidation ^{Rights of director who pays the debt} or winding-up proceedings or under the *Bankruptcy Act* (Canada), a director who pays the debt is entitled to any preference that the creditor paid would have been entitled

to or, if a judgment has been recovered for the debt, the director is entitled to an assignment of the judgment. R.S.O. 1970, c. 53, s. 139.

Removal
of directors

138.—(1) Subject to subsection (2), the shareholders may, by resolution passed by a majority of the votes cast at a general meeting duly called for that purpose, remove any director before the expiration of his term of office and may, by a majority of the votes cast at the meeting, elect any person in his stead for the remainder of his term, but, where the directors have been elected by the method of voting provided by section 125, no director shall be removed from office where the votes cast against the resolution for his removal would, if cumulatively voted at an election of the full board of directors, be sufficient to elect one or more directors. R.S.O. 1970, c. 53, s. 140; 1972, c. 138, s. 37 (1).

Idem

(2) Where a class of shares carries the exclusive right to elect a part of the board of directors, no director so elected may be removed from office before the expiration of his term except by resolution passed by a majority of votes cast at a meeting of holders of shares of the class duly called for that purpose. 1972, c. 138, s. 37 (2).

Officers

Officers

139.—(1) A corporation shall have a president and a secretary and such other officers as are provided for by by-law or by resolution of the directors and the same person may hold two or more offices. 1972, c. 138, s. 38.

Election and
appointment

(2) In the absence of other provisions in that behalf in the articles or by-laws, the directors,

(a) shall elect the president from among themselves;

(b) shall appoint or elect the secretary; and

(c) may appoint or elect one or more vice-presidents or other officers. R.S.O. 1970, c. 53, s. 141 (2).

Chairman
of the
board

140. A corporation may by special by-law,

(a) provide for the election or appointment by the directors from among themselves of a chairman of the board;

(b) define the duties of the chairman;

- (c) assign to the chairman all or any of the duties of the president or of any other officer of the corporation,

and, if the by-law assigns to the chairman any of the duties of the president, it shall also fix and prescribe the duties of the president. R.S.O. 1970, c. 53, s. 142.

141. Unless the articles or by-laws otherwise provide, no person shall be the president of a corporation unless he is a director of the corporation, but no other officer except the chairman of the board need be a director. 1971, c. 26, s. 22.

Qualifications of chairman and president

General

142. Every director and officer of a corporation shall exercise the powers and discharge the duties of his office honestly, in good faith and in the best interests of the corporation, and in connection therewith shall exercise the degree of care, diligence and skill that a reasonably prudent person would exercise in comparable circumstances. R.S.O. 1970, c. 53, s. 144.

Standards of care, etc., of directors

143. An act done by a director or by an officer is not invalid by reason only of any defect that is thereafter discovered in his appointment, election or qualification. R.S.O. 1970, c. 53, s. 145.

Validity of acts of directors and officers

144. Those directors and officers of a corporation who authorize or consent to a loan in contravention of clause 16 (1) (a) or the giving, directly or indirectly by means of a loan, guarantee, the provision of security or otherwise, any financial assistance in contravention of clause 16 (1) (b) are jointly and severally liable to the corporation and to its creditors for any actual loss to the corporation arising out of the contravention, together with interest at the rate of 6 per cent a year. 1972, c. 138, s. 39.

Liability of directors and officers

145.—(1) Subject to subsection (2), the by-laws of a corporation may provide that every director and officer of the corporation and his heirs, executors, administrators and other legal personal representatives may from time to time be indemnified and saved harmless by the corporation from and against,

Indemnification of directors

- (a) any liability and all costs, charges and expenses that he sustains or incurs in respect of any action, suit

or proceeding that is proposed or commenced against him for or in respect of anything done or permitted by him in respect of the execution of the duties of his office; and

- (b) all other costs, charges and expenses that he sustains or incurs in respect of the affairs of the corporation.

Idem

(2) No director or officer of a corporation shall be indemnified by the corporation in respect of any liability, costs, charges or expenses that he sustains or incurs in or about any action, suit or other proceeding as a result of which he is adjudged to be in breach of any duty or responsibility imposed upon him under this Act or under any other statute unless, in an action brought against him in his capacity as director or officer, he has achieved complete or substantial success as a defendant.

Insurance

(3) A corporation may purchase and maintain insurance for the benefit of a director or officer thereof, except insurance against a liability, cost, charge or expense of the director or officer incurred as a result of a contravention of section 142. R.S.O. 1970, c. 53, s. 147.

DIVIDENDS

Power to
declare
dividends

146.—(1) Subject to the articles of the corporation, the directors may declare and the corporation may pay dividends on its issued shares.

Manner of
payment

(2) A dividend may be paid in cash or in property not exceeding in value the amount of the dividend.

When
dividend
not to be
declared

(3) The directors shall not declare and the corporation shall not pay any dividend when the corporation is insolvent, or any dividend the payment of which renders the corporation insolvent or that diminishes its capital. R.S.O. 1970, c. 53, s. 153.

Corporations
with wasting
assets

147.—(1) Notwithstanding anything in this Act, a corporation,

- (a) that for the time being carries on as its principal business the business of operating a producing mining, gas or oil property owned and controlled by it; or
- (b) at least 75 per cent of the assets of which are of a wasting character; or
- (c) incorporated for the object of acquiring the assets or a substantial part of the assets of a body corporate and administering such assets for the purpose of converting them into cash and distributing the cash among the shareholders of the corporation,

may declare and pay dividends out of the funds derived from the operations of the corporation.

(2) The powers conferred by subsection (1) may be exercised notwithstanding that the value of the net assets of the corporation may be thereby reduced to less than its issued capital if the payment of the dividends does not reduce the value of its remaining assets to an amount insufficient to meet all the liabilities of the corporation exclusive of its issued capital. Extent of impairment of capital

(3) The powers conferred by subsection (1) may be exercised only under the authority of a special by-law. Special by-law

(4) Where dividends have been paid by a corporation in any of the cases mentioned in subsection (1) without the authority of a by-law, the payment thereof is nevertheless valid if a by-law adopting and approving the payment is passed and confirmed in the same manner as for a special by-law. Idem
R.S.O. 1970, c. 53, s. 154.

148. For the amount of any dividend that the directors may declare payable in cash, they may declare a stock dividend and issue therefor shares of the corporation as fully paid. R.S.O. 1970, c. 53, s. 155. Stock dividends

RECORDS

149.—(1) Where this Act requires a record to be kept by a corporation, it may be kept in a bound or looseleaf book, or by means of a mechanical, electronic or other device. Records

Where not
in bound
book

(2) Where a record is not kept in a bound book, the corporation shall,

- (a) take adequate precautions, appropriate to the means used, for guarding against the risk of falsifying the information recorded; and
- (b) provide means for making the information available in an accurate and intelligible form within a reasonable time to any person lawfully entitled to examine the record.

Admissi-
bility of
records in
evidence

(3) The bound or looseleaf book or, where the record is not kept in a bound or looseleaf book, the information in the form in which it is made available under clause (2) (b) is admissible in evidence as *prima facie* proof, before and after dissolution of the corporation, of all facts stated therein.

False
information

(4) No person shall remove, withhold or destroy information required by this Act or the regulations to be recorded, or,

- (a) record or assist in recording any information in a record; or
- (b) make information purporting to be accurate available in a form referred to in clause (2) (b),

knowing it to be untrue. R.S.O. 1970, c. 53, s. 156.

Records

150. A corporation shall cause to be kept the following records:

1. A copy of the articles of the corporation.
2. All by-laws and resolutions, including special by-laws and special resolutions of the corporation.
3. A register of security holders in which is set out the names alphabetically arranged or alphabetically indexed in appropriate categories of,
 - i. all person who are or have been within ten years registered as shareholders of the cor-

poration and the address including the street and number, if any, of every such person while a holder, in which are set out also the number and class of shares held by such holder and, where the shares were issued before the 1st day of January, 1971 and not fully paid, the amounts paid up and remaining unpaid on such shares,

- ii. all persons who are or have been holders of debt obligations other than debt obligations in bearer form of the corporation and the address including the street and number, if any, of every such person while a holder in which are set out also the class or series and principal amount of the debt obligations held by such holder,
 - iii. all persons who are or have been within six years after the date of expiry of a warrant registered as holders of warrants of the corporation and the address including the street and number, if any, of every such person while a holder, setting out the class or series and number of warrants held by such holder.
4. A register of directors in which are set out the names and residence addresses, while directors, including the street and number, if any, of all persons who are or have been directors of the corporation with the several dates on which each became or ceased to be a director.
 5. Proper accounting records in which are set out all financial and other transactions of the corporation including, without limiting the generality of the foregoing, records of,
 - i. all sums of money received and disbursed by the corporation and the matters with respect to which receipt and disbursement took place,
 - ii. all sales and purchases of the corporation,
 - iii. the assets and liabilities of the corporation, and
 - iv. all other transactions affecting the financial position of the corporation.

6. The minutes of all proceedings at meetings of shareholders, directors and any executive committee. R.S.O. 1970, c. 53, s. 157; 1972, c. 138, s. 40.

Register of transfers

151. Every corporation shall cause to be kept a register of transfers in which all transfers of securities issued by the corporation in registered form and the date and other particulars of each transfer shall be set out. R.S.O. 1970, c. 53, s. 158.

Transfer agents

152. A corporation may appoint a registrar to keep the register of security holders and a transfer agent to keep the register of transfers and may also appoint one or more branch registrars to keep branch registers of security holders and one or more branch transfer agents to keep branch registers of transfers but one person may be appointed both registrar and transfer agent. 1972, c. 138, s. 41.

Where registers to be kept

153.—(1) The register of security holders and the register of transfers shall be kept at the head office of the corporation or at such other office or offices or place or places in Ontario as is appointed by resolution of the directors, and the branch register or registers of security holders and the branch register or registers of transfers may be kept at such office or offices of the corporation or other place or places, either within or outside Ontario, as are appointed by resolution of the directors. R.S.O. 1970, c. 53, s. 160 (1); 1972, c. 138, s. 42 (1).

Valid registration

(2) Registration of the transfer of a security of the corporation in the register of transfers or a branch register of transfers is a complete and valid registration for all purposes.

Entry in Branch transfer register

(3) In each branch, register of transfers shall be recorded only the particulars of the transfers of securities registered in that branch register of transfers.

Entry in register of transfers

(4) Particulars of every transfer of securities registered in every branch register of transfers shall be recorded in the register of transfers. R.S.O. 1970, c. 53, s. 160 (2-4).

Destruction of spent documents

(5) A corporation, registrar or transfer agent is not liable to produce a security certificate, a warrant or any document that is evidence of the issue or transfer of the security certificate or warrant after six years,

- (a) in the case of a share certificate from the date of its cancellation;

(b) in the case of a warrant from the date of its expiry;
or

(c) in the case of a certificate representing a debt obligation, from the date of retirement of the whole debt obligation of which that certificate represents a part. 1972, c. 138, s. 42 (2).

154.—(1) The records mentioned in sections 150 and 151 shall, during the normal business hours of the corporation, be open to examination by any director and shall, except as provided in section 153 and in subsections (2) and (3) of this section, be kept at the head office of the corporation.

Records
open to
examination
by directors

(2) A corporation may keep at any place where it carries on business such parts of the accounting records as relate to the operations, business and assets and liabilities of the corporation carried on, supervised or accounted for at such place, but there shall be kept at the head office of the corporation or such other place as is authorized under subsection (3) such records as will enable the directors to ascertain quarterly with reasonable accuracy the financial position of the corporation.

Records of
account at
branch

(3) Where a corporation,

Order for
removal of
records

(a) shows, to the satisfaction of the Minister, the necessity of keeping all or any of the records mentioned in subsection (1) at a place other than the head office of the corporation; and

(b) gives the Minister adequate assurance, by surety bond or otherwise, that such records will be open for examination,

(i) at the head office or some other place in Ontario designated by the Minister, and

(ii) by any person who is entitled to examine them and who has applied to the Minister for such an examination,

the Minister may, by order and upon such terms as he thinks fit, permit the corporation to keep such of them at such place or places, other than the head office, as he thinks fit.

(4) The Minister may by order upon such terms as he sees fit rescind any order made under subsection (3) or any order made by the Lieutenant Governor in Council under a predecessor of that subsection. R.S.O. 1970, c. 53, s. 161.

Rescission
of orders
made under
subs. (3)

Examination
of records by
shareholders
and creditors

155.—(1) Subject to section 156, the records of a corporation mentioned in section 150 or 151, other than accounting records, resolutions of directors and the minutes of proceedings at meetings of directors and any executive committee, shall, during the normal business hours of the corporation and at the place or places where they are kept, be open to examination by the shareholders and creditors or their agents or personal representatives, and any of them may make extracts therefrom. R.S.O. 1970, c. 53, s. 162 (1); 1972, c. 138, s. 43.

Idem

(2) No person shall refuse to permit a person entitled thereto to inspect such records or to make extracts therefrom. R.S.O. 1970, c. 53, s. 162 (2).

List of
security
holders

156.—(1) A shareholder or creditor or the agent or personal representative of any of them shall not make or cause to be made a list of all or any of the security holders or registered warrant holders of the corporation unless he has filed with the corporation or its agent his affidavit in the following form, and, where the shareholder or creditor is a body corporate, the affidavit shall be made by the president or other officer authorized by resolution of the board of directors of the body corporate:

Form of Affidavit

Province of Ontario
County of

In the matter of
(Insert name of corporation)

I,, of the of

in the of

make oath and say:

1. I am a shareholder (or creditor) of the above-named corporation.

(Where the shareholder or creditor is a body corporate, indicate office and authority of deponent in paragraph 1.)

2. I am applying to make a list of the shareholders (debt obligation holders) (registered warrant holders) of the above-named corporation.

3. I require the above-mentioned list(s) only for purposes connected with the above-named corporation.

4. The above-mentioned list(s) and the information contained therein will be used only for purposes connected with the above-named corporation.

Sworn, etc.

Use of
list

(2) No person, other than the corporation or its agent, shall use a list obtained under this section,

- (a) for the purpose of delivering or sending to all or any of the security holders or registered warrant holders advertising or other printed matter relating to securities, other than the securities of the corporation; or
- (b) for any purposes not connected with the corporation. 1972, c. 138, s. 44.

(3) Purposes connected with the corporation include any effort to influence the voting of shareholders or debt obligation holders at any meeting thereof and include the acquisition or offering of shares to acquire control or to effect an amalgamation or reorganization. R.S.O. 1970, c. 53, s. 163 (3).

Purposes connected with the corporation defined

157.—(1) Any person, upon payment of a reasonable charge therefor and upon filing with the corporation or its agent the affidavit referred to in subsection (2), may require a corporation, other than a corporation that is not offering its securities to the public, or its transfer agent to furnish within ten days from the filing of the affidavit a basic list of security holders or registered warrant holders of the corporation setting out the information required in section 150 to be set out in the register of security holders or warrant holders made up to a date not more than ten days before the date of filing the affidavit and having required such basic list, upon payment of a reasonable charge therefor and upon filing with the corporation or its agent a written demand, may require the corporation or its transfer agent to furnish supplementary lists of transfers of securities or registered warrants for each business day following the date to which the basic list is made up, and the supplementary lists shall be furnished concurrently with the basic list and thereafter on the next business day following the day to which the supplementary list relates.

Where list of shareholders to be furnished

(2) The affidavit referred to in subsection (1) shall be made by the applicant and shall be in the following form:

Form of affidavit

Form of Affidavit

Province of Ontario	In the matter of
County of York	(Insert name of corporation)

I, of the of
in the of
make oath and say:

(Where the applicant is a body corporate, indicate office and authority of deponent).

1. I require a list of the shareholders (debt obligation holders) (registered warrant holders) of the above-named corporation.

2. I require the above-mentioned list(s) only for purposes connected with the above-named corporation.

3. The above-mentioned list(s) and the information contained therein will be used only for purposes connected with the above-named corporation.

Sworn, etc.

1972, c. 138, s. 45, *part.*

Idem,
where
applicant
a body
corporate

(3) Where the applicant is a body corporate, the affidavit shall be made by the president or other officer authorized by resolution of the board of directors of the body corporate. R.S.O. 1970, c. 53, s. 164 (3).

Use of list

(4) No person shall use a list obtained under this section,

(a) for the purpose of delivering or sending to all or any of the shareholders advertising or other printed matter relating to securities or warrants other than the securities or warrants of the corporation; or

(b) for any purpose not connected with the corporation.
1972, c. 138, s. 45, *part.*

Furnishing
list

(5) Every corporation or transfer agent shall furnish a list in accordance with subsection (1) when so required. R.S.O. 1970, c. 53, s. 164 (5).

Purposes
connected
with
corporation
defined

(6) Purposes connected with the corporation include any effort to influence the voting of security holders at any meeting thereof, any offer to acquire shares of the corporation or any effort to effect an amalgamation or reorganization. 1972, c. 138, s. 45, *part.*

Trafficking
in lists

158. No person shall offer for sale or sell or purchase or otherwise traffic in a list or a copy of a list of all or any of the security holders or registered warrant holders of a corporation. R.S.O. 1970, c. 53, s. 165; 1972, c. 138, s. 46.

Power of
court to
correct

159.—(1) Where the name of a person is, without sufficient cause, entered in or omitted from the records of a corporation other than accounting records, or if default is made or unnecessary delay takes place in entering therein the fact of any person having ceased to be a security holder of the corporation, the person or security holder aggrieved, or any security holder of the corporation, or the corporation itself, may apply to the court for an order that the records

be rectified, and the court may dismiss such application or make an order for the rectification of the records and may direct the corporation to compensate the party aggrieved for any damage he has sustained.

(2) The court may, in any proceeding under this section, decide any question relating to the entitlement of a person who is a party to the proceeding to have his name entered in or omitted from such records whether the question arises between two or more security holders or alleged security holders, or between any security holders or alleged security holders and the corporation. Decision as to title

(3) The court may direct an issue to be tried.

Trial of
issue

(4) This section does not deprive any court of any jurisdiction it otherwise has. R.S.O. 1970, c. 53, s. 166.

Jurisdiction
of courts
not
affected

AUDITORS AND FINANCIAL STATEMENTS

160.—(1) Subject to subsection (2), where in a financial year all the shareholders of a corporation that, Exemption from audit provisions

(a) is not offering its securities to the public;

(b) has five or fewer shareholders; and

(c) has assets not exceeding \$500,000 and sales or gross operating revenues not exceeding \$1,000,000, as shown on the financial statement of the corporation for the preceding year,

consent in writing, the corporation is exempt from sections 161 and 162, subsections 163 (1) to (3), section 164, and clause 165 (1) (c) and subsection 165 (3) in respect of the year in which the consent is given. 1971, c. 26, s. 24.

(2) Subsection (1) does not apply to a subsidiary corporation unless its holding corporation is exempted under subsection (1) at the time the consent of the shareholders is given. R.S.O. 1970, c. 53, s. 167 (2). Subsidiary corporations

161.—(1) The shareholders of a corporation at their first general meeting shall appoint one or more auditors to hold office until the close of the first annual meeting and, if the shareholders fail to do so, the directors shall forthwith make such appointment or appointments. Auditors

Idem

(2) The shareholders shall at each annual meeting appoint one or more auditors to hold office until the close of the next annual meeting and, if an appointment is not so made, the auditor in office continues in office until a successor is appointed.

Casual
vacancy

(3) The directors may fill any casual vacancy in the office of auditor, but, while such vacancy continues, the surviving or continuing auditor, if any, may act.

Removal
of auditor

(4) The shareholders may, by resolution passed by a majority of the votes cast at a general meeting duly called for the purpose, remove an auditor before the expiration of his term of office, and shall by a majority of the votes cast at that meeting appoint another auditor in his stead for the remainder of his term.

Notice to
auditor

(5) Before calling a general meeting for the purpose specified in subsection (4), the corporation shall, fifteen days or more before the mailing of the notice of the meeting, give to the auditor,

(a) written notice of the intention to call the meeting, specifying therein the date on which the notice of the meeting is proposed to be mailed; and

(b) a copy of all material proposed to be sent to shareholders in connection with the meeting. R.S.O. 1970, c. 53, s. 168 (1-5).

Right of
auditor
to make
repre-
sentations

(6) An auditor has the right to make to the corporation, three days or more before the mailing of the notice of the meeting, representations in writing, concerning,

(a) his proposed removal as auditor;

(b) the appointment or election of another person to fill the office of auditor; or

(c) his resignation as auditor,

and the corporation, at its expense, shall forward with the notice of the meeting a copy of such representations to each shareholder entitled to receive notice of the meeting. 1972, c. 138, s. 47.

Remunera-
tion

(7) The remuneration of an auditor appointed by the shareholders shall be fixed by the shareholders, or by the directors if they are authorized so to do by the shareholders,

and the remuneration of an auditor appointed by the directors shall be fixed by the directors.

(8) If for any reason no auditor is appointed, the court may, on the application of a shareholder, appoint one or more auditors to hold office until the close of the next annual meeting and may fix the remuneration to be paid by the corporation for his or their services. Appointment by court

(9) The corporation shall give notice in writing to an auditor of his appointment forthwith after the appointment is made. R.S.O. 1970, c. 53, s. 168 (7-9). Notice of appointment

162.—(1) If, in the information circular required by subsection 116 (1), reference is made to action proposed to be taken at an annual meeting of shareholders with respect to the appointment of an auditor other than the incumbent auditor, the corporation shall, fifteen days or more before the mailing of the notice of the meeting, give to the incumbent auditor written notice of management's intention not to recommend his reappointment at the annual meeting, specifying therein the date on which the notice of the meeting is proposed to be mailed. Notice to auditor of proposal to appoint another

(2) The incumbent auditor has the right to make to the corporation, three days or more before the mailing of the notice of the meeting, representations in writing concerning the proposal not to reappoint him as auditor, and the corporation, at its expense, shall forward with the notice of the meeting a copy of such representations to each shareholder entitled to receive notice of the meeting. R.S.O. 1970, c. 53, s. 169. Right of incumbent auditor to make representations

163.—(1) No person shall be appointed or act as auditor of a corporation who is a director, officer or employee of the corporation or of an affiliate of the corporation or who is a partner, employer or employee of any such director, officer or employee or who is a related person to any director or officer of the corporation or of an affiliate of the corporation. Persons disqualified as auditors

(2) No person shall be appointed or act as auditor of a corporation if he or any partner or employer of or related person to him beneficially owns, directly or indirectly, any securities of the corporation or of a subsidiary thereof or, if the corporation is a subsidiary, any securities of its holding corporation. Idem

(3) Subsection (2) does not apply to a person, partner, employer or related person, as the case may be, if the person, partner, employer or related person is not empowered to Where subs. (2) does not apply

decide whether securities of the corporation or its holding corporation, as the case may be, are to be beneficially owned, directly or indirectly, by him, or if he is not entitled to vote in respect thereof.

Auditors
not to be
appointed
receivers,
etc.

(4) No person shall be appointed a receiver or a receiver and manager or liquidator of any corporation of which he or any partner or employer of or a related person to him is the auditor or has been auditor within the two years preceding his appointment as receiver or receiver and manager or liquidator.

Trustee in
bankruptcy
not to be
auditor
R.S.C. 1970,
c. B-3

(5) No person who is appointed a trustee of the estate of a corporation under the *Bankruptcy Act* (Canada) or any partner or employer of or a related person to him shall be appointed or act as auditor of the corporation. R.S.O. 1970, c. 53, s. 170.

Annual
audit

164.—(1) The auditor shall make such examination as will enable him to report to the shareholders as required by subsection (2).

Auditor's
report

(2) The auditor shall make a report to the shareholders on the financial statement, other than the part thereof that relates to the period referred to in subclause 165 (1) (b) (ii), to be laid before the corporation at any annual meeting during his term of office and shall state in his report whether in his opinion the financial statement referred to therein presents fairly the financial position of the corporation and the results of its operations for the period under review in accordance with generally accepted accounting principles applied on a basis consistent with that of the preceding period, if any.

Idem

(3) Where the report under subsection (2) does not contain the unqualified opinion required thereby, the auditor shall state in his report the reasons therefor. R.S.O. 1970, c. 53, s. 171 (1-3).

Facts
discovered
after
statement

(4) Where facts come to the attention of the officers or directors,

(a) which could reasonably have been determined prior to the date of the last annual meeting of the shareholders; and

(b) which if known prior to the date of the last annual meeting of shareholders, would have required a material adjustment to the financial statement presented to the meeting,

the officers or directors shall communicate such facts to the auditor who reported to the shareholders under this section and the directors shall forthwith amend the financial statement and send it to the auditor. 1972, c. 138, s. 48.

(5) On the receipt of facts furnished under subsection (4) or from any other source, the auditor shall, if in his opinion it is necessary, amend his report in respect of the financial statement in accordance with subsection (2) and the directors or, if they fail to do so within a reasonable time, the auditor shall mail such amended report to the shareholders. ^{Amendment of auditor's report}

(6) If the financial statement contains a statement of changes in net assets or a statement of source and application of funds, the auditor shall include in his report a statement whether in his opinion, in effect, the statement of changes in net assets or the statement of source and application of funds presents fairly the information shown therein. ^{Idem}

(7) Whether or not the assets and liabilities and income and expense of any one or more subsidiaries of a holding corporation are included in the financial statement of the holding corporation, the report of the auditor of the holding corporation required by subsection (2) may refer to the reports of auditors of one or more of such subsidiaries, but such reference shall not derogate from the duty of the auditor of the holding corporation to comply with subsection (2). ^{Idem}

(8) The auditor in his report shall make such statements as he considers necessary, ^{Idem}

- (a) if the corporation's financial statement is not in agreement with its accounting records;
- (b) if the corporation's financial statement is not in accordance with the requirements of this Act;
- (c) if he has not received all the information and explanations that he has required; or
- (d) if proper accounting records have not been kept, so far as appears from his examination.

(9) The auditor of a corporation has right of access at all times to all records, documents, accounts and vouchers of the corporation and is entitled to require from the directors, officers and employees of the corporation such information and explanation as in his opinion are necessary to enable him to report as required by subsection (2). ^{Right of access, etc.}

Idem (10) The auditor of a holding corporation has right of access at all times to all records, documents, accounts and vouchers of all subsidiaries of the corporation and is entitled to require from the directors, officers and employees of each such subsidiary such information and explanation as in his opinion are necessary to enable him to report as required by subsection (2).

Idem (11) Where a subsidiary referred to in subsection (10) is a body corporate to which this Act does not apply, the holding corporation shall make available to its auditor the records, documents, accounts and vouchers of that subsidiary and shall require the directors, officers and employees of that subsidiary to make available to its auditor the information and explanation required by subsection (10).

Auditor may attend shareholders' meetings (12) The auditor of a corporation is entitled to attend any meeting of shareholders of the corporation and to receive all notices and other communications relating to any such meeting that a shareholder is entitled to receive, and to be heard at any such meeting that he attends on any part of the business of the meeting that concerns him as auditor.

Shareholder may require auditor's attendance at shareholders' meetings (13) Any shareholder of a corporation, whether or not he is entitled to vote at meetings of shareholders, may, by notice in writing to the corporation given five days or more before any meeting of shareholders, require the attendance of the auditor at such meeting at the corporation's expense, and in such event the auditor shall attend the meeting.

Auditors must answer inquiries at shareholders' meetings (14) At any meeting of shareholders, the auditor, if present, shall answer inquiries directed to him concerning the bases upon which he formed the opinion stated in the report made under subsection (2). R.S.O. 1970, c. 53, s. 171 (5-14).

Information to be laid before annual meeting **165.—**(1) The directors shall lay before each annual meeting of shareholders,

(a) in the case of a corporation that is not offering its securities to the public, a financial statement for the period that commenced on the date of incorporation and ended not more than six months before the annual meeting or, if the corporation has completed a financial year, that commenced immediately after the end of the last completed financial year and ended not more than six months before the annual meeting, as the case may be, made up of,

(i) a statement of profit and loss for such period,

- (ii) a statement of surplus for such period, and
- (iii) a balance sheet as at the end of such period;
- (b) in the case of a corporation that is offering its securities to the public, the financial statement required to be filed under the *Securities Act* and the regulations thereunder relating separately to, R.S.O. 1980,
c. 466
 - (i) the period that commenced on the date of incorporation and ended as of the close of the first financial year or, if the corporation has completed a financial year, the last financial year, as the case may be, and
 - (ii) the period covered by the financial year next preceding the last financial year, if any;
- (c) the report of the auditor to the shareholders; and
- (d) such further information respecting the financial position of the corporation as the articles or by-laws of the corporation require. R.S.O. 1970, c. 53, s. 172 (1); 1978, c. 49, s. 7 (1).

(2) It is not necessary to designate the statements referred to in clause (1) (a) as the statement of profit and loss, statement of surplus and balance sheet. Designation
of
statements 1978, c. 49, s. 7 (2).

(3) The reference in clause (1) (a) to an annual meeting of a corporation includes the completion of the action otherwise required to be taken at an annual meeting in accordance with section 22 and subsection 105 (2). Idem

(4) Subject to subsection 105 (2), the report of the auditor to the shareholders shall be read at the annual meeting and shall be open to inspection at the meeting by any shareholder. 1972, c. 138, s. 49. Auditor's
report to
be read

166.—(1) The statement of profit and loss to be laid before an annual meeting shall be drawn up so as to present fairly the results of the operations of the corporation for the period covered by the statement and so as to distinguish severally at least, Statement
of profit
and loss

- (a) the operating profit or loss before including or providing for other items of income or expense that are required to be shown separately;

- (b) income from investments in subsidiaries whose financial statements are not consolidated with those of the corporation;
- (c) income from investments in affiliated corporations other than subsidiaries;
- (d) income from other investments;
- (e) non-recurring profits and losses of significant amount including profits or losses on the disposal of capital assets and other items of a special nature to the extent that they are not shown separately in the statement of earned surplus;
- (f) any provision for depreciation or for obsolescence or for depletion;
- (g) amounts written off for goodwill or amortization of any other intangible assets to the extent that they are not shown separately in the statement of earned surplus;
- (h) interest on indebtedness initially incurred for a term of more than one year, including amortization of debt discount or premium and expense;
- (i) taxes on income imposed by any taxing authority,

and shall show the net profit or loss for the financial period. R.S.O. 1970, c. 53, s. 173 (1); 1971, c. 26, s. 26; 1978, c. 49, s. 8 (1).

Notes

(2) Notwithstanding subsection (1), items of the natures described in clauses (1) (f) and (g) may be shown by way of note to the statement of profit and loss. R.S.O. 1970, c. 53, s. 173 (2); 1972, c. 138, s. 50 (3); 1978, c. 49, s. 8 (2).

Statement
of surplus

167.—(1) The statement of surplus to be laid before an annual meeting shall be drawn up so as to present fairly the transactions reflected in the statement and shall show separately a statement of contributed surplus and a statement of earned surplus.

Contributed
surplus

(2) The statement of contributed surplus shall be drawn up so as to include and distinguish at least the following items:

1. The balance of such surplus at the end of the preceding financial period.
2. The additions to and deductions from such surplus during the financial period including,
 - i. the amount of surplus arising from the issue of shares or the reorganization of the corporation's issued capital, including *inter alia*,
 - a. the amount of premiums received on the issue of shares at a premium,
 - b. the amount of surplus realized on the purchase for cancellation of shares, and
 - ii. donations of cash or other property by shareholders.

3. The balance of such surplus at the end of the financial period.

(3) The statement of earned surplus shall be drawn up so ^{Earned surplus} as to distinguish at least the following items:

1. The balance of such surplus at the end of the preceding financial period.
2. The additions to and deductions from such surplus during the financial period and without restricting the generality of the foregoing at least the following:
 - i. The amount of the net profit or loss for the financial period.
 - ii. The amount of dividends declared on each class of shares.
 - iii. The amount transferred to or from reserves.
3. The balance of such surplus at the end of the financial period. R.S.O. 1970, c. 53, s. 174.

Balance
sheet

168.—(1) The balance sheet to be laid before an annual meeting shall be drawn up so as to present fairly the financial position of the corporation as at the date to which it is made up and so as to distinguish severally at least the following:

1. Cash.
2. Debts owing to the corporation from its directors, officers or shareholders, except debts of reasonable amount arising in the ordinary course of its business that are not overdue having regard to its ordinary terms of credit.
3. Debts owing to the corporation, whether on account of a loan or otherwise, from subsidiaries whose financial statements are not consolidated with those of the corporation.
4. Debts owing to the corporation, whether on account of a loan or otherwise, from affiliated corporations other than subsidiaries.
5. Other debts owing to the corporation segregating those that arose otherwise than in the ordinary course of its business.
6. Inventory, stating the basis of valuation.
7. Shares, bonds, debentures and other investments owned by the corporation, except those referred to in paragraphs 8 and 9, stating their nature and the basis of their valuation and showing separately those that are marketable with a notation of their market value.
8. Securities of subsidiaries whose financial statements are not consolidated with those of the corporation, stating the basis of valuation.
9. Securities of affiliated corporations other than subsidiaries, stating the basis of valuation.

10. Lands, buildings, and plant and equipment, stating the basis of valuation, whether cost or otherwise, and, if valued on the basis of an appraisal, the date of appraisal, the name of the appraiser, the basis of the appraisal value and, if such appraisal took place within five years preceding the date to which the balance sheet is made up, the disposition in the accounts of the corporation of any amounts added to or deducted from such assets on appraisal and also the amount or amounts accumulated in respect of depreciation, obsolescence and depletion.
11. There shall be stated under separate headings, in so far as they are not written off,
 - i. expenditures on account of future business,
 - ii. any expense incurred in connection with any issue of shares,
 - iii. any expense incurred in connection with any issue of debt obligations, including any discount thereon, and
 - iv. any one or more of the following: goodwill, franchises, patents, copyrights, trade marks and other intangible assets and the amount, if any, by which the value of any such assets has been written up within a period of five years preceding the date to which the balance sheet is made up.
12. The aggregate amount of any outstanding loans or guarantees under clauses 16 (2) (c) and (d).
13. Bank loans and overdrafts.
14. Debts owing by the corporation on loans from its directors, officers or shareholders.
15. Debts owing by the corporation to subsidiaries whose financial statements are not consolidated with those of the corporation, whether on account of a loan or otherwise.

16. Debts owing by the corporation to affiliated corporations other than subsidiaries, whether on account of a loan or otherwise.
17. Other debts owing by the corporation, segregating those that arose otherwise than in the ordinary course of its business.
18. Liability for taxes, including the estimated liability for taxes in respect of the income of the period covered by the statement of profit and loss.
19. Dividends declared but not paid.
20. Deferred income.
21. Debt obligations issued by the corporation, stating the interest rate, the maturity date, the amount outstanding and the existence of sinking fund, redemption requirements and conversion rights, if any.
22. The authorized capital, giving the number of each class of shares and a brief description of each such class, and indicating therein any class of shares that is redeemable and the redemption price thereof.
23. The issued capital, giving the number of shares of each class issued and outstanding and the amount received therefor that is attributable to capital, and showing,
 - i. the number of shares of each class issued since the date of the last preceding balance sheet and the value attributed thereto, distinguishing shares issued for cash, shares issued for services and shares issued for other consideration, and
 - ii. where any shares issued before this Act comes into force have not been fully paid,
 - a. the number of shares in respect of which calls have not been made and the aggregate amount that has not been called, and
 - b. the number of shares in respect of which calls have been made and not paid and

the aggregate amount that has been called and not paid.

24. Contributed surplus.
25. Earned surplus.
26. Reserves, showing the amounts added thereto and the amounts deducted therefrom during the financial period.
27. The number of common shares of the corporation purchased and the number of the common shares of the corporation resold since the date of the last preceding balance sheet, giving the date of each such purchase and resale and the price at which each such purchase or resale was made. R.S.O. 1970, c. 53, s. 177 (1); 1971, c. 26, s. 27.

(2) Explanatory information or particulars of any item ^{Notes} mentioned in subsection (1) may be shown by way of note to the balance sheet. R.S.O. 1970, c. 53, s. 177 (2).

169.—(1) There shall be stated by way of note to the ^{Notes to financial statement} financial statement particulars of any change in accounting principle or practice or in the method of applying any accounting principle or practice made during the period covered that affects the comparability of any of the statements with any of those for the preceding period, and the effect, if material, of any such change upon the profit or loss for the period.

(2) For the purpose of subsection (1), a change in account- ^{Change in accounting practice} ing principle or practice or in the method of applying any accounting principle or practice affects the comparability of a statement with that for the preceding period, even though such change did not have a material effect upon the profit or loss for the period. R.S.O. 1970, c. 53, s. 178 (1, 2).

(3) Where applicable, the following matters shall be ^{Idem} referred to in the financial statement or by way of note thereto:

1. The basis of conversion of amounts from currencies other than the currency in which the financial statement is expressed.
2. Foreign currency restrictions that affect the assets of the corporation.

3. Contractual obligations that will require abnormal expenditures in relation to the corporation's normal business requirements or financial position or that are likely to involve losses not provided for in the accounts.
4. Material contractual obligations in respect of long-term leases, including, in the year in which the transaction was effected, the principal details of any sale and lease transaction.
5. Contingent liabilities, stating their nature and, where practicable, the approximate amounts involved.
6. Any liability secured otherwise than by operation of law on any asset of the corporation, stating the liability so secured.
7. Any default of the corporation in principal, interest, sinking fund or redemption provisions with respect to any issue of its debt obligation or credit agreements.
8. The gross amount of arrears of dividends on any class of shares and the date to which such dividends were last paid.
9. Where a corporation has contracted to issue shares or has given an option to purchase shares, the class and number of shares affected, the price and the date for issue of the shares or exercise of the option.
10. Where a corporation has contracted to purchase or resell common shares, the number of shares affected and price and date for the purchase or resale.
11. The aggregate direct remuneration paid or payable by the corporation and its subsidiaries whose financial statements are consolidated with those of the corporation to the directors and the senior officers and, as a separate amount, the aggregate direct remuneration paid or payable to such directors and senior officers by the subsidiaries of the corporation whose financial statements are not consolidated with those of the corporation.
12. In the case of a holding corporation, the aggregate of any shares in, and the aggregate of any debt

obligations of, the holding corporation held by subsidiary corporations whose financial statements are not consolidated with those of the holding corporation.

13. The amount of any loans by the corporation, or by a subsidiary corporation, otherwise than in the ordinary course of business, during the corporation's financial period, to the directors or officers of the corporation.
14. Any restriction by the articles or by-laws of the corporation or by contract on the payment of dividends that is significant in the light of the corporation's financial position.
15. Any event or transaction, other than one in the normal course of business operations, between the date to which the financial statement is made up and the date of the auditor's report thereon that materially affects the financial statement. R.S.O. 1970, c. 53, s. 178 (3), pars. 1-15.
16. Brief particulars of any action to which the corporation is a party commenced under section 97 during the period. R.S.O. 1970, c. 53, s. 178 (3), par. 17.

(4) A note to a financial statement is a part of it. R.S.O. 1970, *Idem* c. 53, s. 178 (4); 1972, c. 138, s. 51, *part*.

170.—(1) A corporation, in this section referred to as “the holding corporation”, to which clause 165 (1) (a) applies, may include in the financial statement to be submitted at an annual meeting the assets and liabilities and income and expense of any one or more of its subsidiaries, making due provision for minority interests, if any, and indicating in such financial statement that it is presented in consolidated form. R.S.O. 1970, c. 53, s. 179 (1); 1978, c. 49, s. 11 (1).

Consolidated
financial
statement

(2) Where the assets and liabilities and income and expense of any one or more subsidiaries of the holding corporation are not so included in the financial statement of the holding corporation,

Non-
consolidated
financial
statements

(a) the financial statement of the holding corporation shall include a statement setting forth,

- (i) the reason why the assets and liabilities and income and expense of such subsidiary or subsidiaries are not included in the financial statement of the holding corporation,
- (ii) if there is only one such subsidiary, the amount of the holding corporation's proportion of the profit or loss of the subsidiary for the financial period coinciding with or ending in the financial period of the holding corporation, or, if there is more than one such subsidiary, the amount of the holding corporation's proportion of the aggregate profits less losses, or losses less profits, of all the subsidiaries for the respective financial periods coinciding with or ending in the financial period of the holding corporation,
- (iii) the amount included as income from such subsidiary or subsidiaries in the statement of profit and loss of the holding corporation and the amount included therein as a provision for the loss or losses of the subsidiary or subsidiaries,
- (iv) if there is only one such subsidiary, the amount of the holding corporation's proportion of the undistributed profits of the subsidiary earned since the acquisition of the shares of the subsidiary by the holding corporation to the extent that such amount has not been taken into the accounts of the holding corporation, or, if there is more than one such subsidiary, the amount of the holding corporation's proportion of the aggregate undistributed profits of all the subsidiaries earned since the acquisition of their shares by the holding corporation less its proportion of the losses, if any, suffered by any subsidiary since the acquisition of its shares to the extent that such amount has not been taken into the accounts of the holding corporation,

- (v) any qualifications contained in the report of the auditor of any such subsidiary on its financial statement for the financial period ending as aforesaid, and any note or reference contained in that financial statement to call attention to a matter that, apart from the note or reference, would properly have been referred to in such a qualification, in so far as the matter that is the subject of the qualification or note is not provided for by the corporation's own financial statement and is material from the point of view of its shareholders;
- (b) if for any reason the directors of the holding corporation are unable to obtain such information as is necessary for the preparation of the statement that is to be included in the financial statement of the holding corporation, the directors who sign the financial statement shall so report in writing and their report shall be included in the financial statement in lieu of the statement;
- (c) if, in the opinion of the auditor of the holding corporation, adequate provision has not been made in the financial statement of the holding corporation for the holding corporation's proportion,
 - (i) where there is only one such subsidiary, of the loss of the subsidiary suffered since acquisition of its shares by the holding corporation, or
 - (ii) where there is more than one such subsidiary, of the aggregate losses suffered by the subsidiaries since acquisition of their shares by the holding corporation in excess of its proportion of the undistributed profits, if any, earned by any of the subsidiaries since such acquisition,

the auditor shall state in his report the additional amount that in his opinion is necessary to make full provision therefor. R.S.O. 1970, c. 53, s. 179 (2).

(3) Whether or not the assets and liabilities and income and expense of any one or more subsidiaries of a holding corporation to which either clause 165 (1) (a) or (b) applies are included in the financial statement of the holding corporation, true copies of the latest financial statement of the subsidiary or subsidiaries shall be kept on hand by the holding corporation at its head office and shall be open to examination by the shareholders

Copies of
subsidiary
statements

of the holding corporation on request during the normal business hours of the holding corporation, but the directors of the holding corporation may by resolution refuse the right of such examination if the examination would be unduly detrimental to the interests of the corporation or the subsidiary or subsidiaries. R.S.O. 1970, c. 53, s. 179 (3); 1978, c. 49, s. 11 (2).

Setting
aside
resolution

(4) A resolution referred to in subsection (3) may, on the application of any shareholder,

- (a) be set aside by the Commission where the corporation is offering its securities to the public; or
- (b) be set aside by the court where the corporation is not offering its securities to the public. R.S.O. 1970, c. 53, s. 179 (4).

Insigni-
ficant
circum-
stances

171. Notwithstanding sections 166 to 170, it is not necessary to state in a financial statement any matter that in all the circumstances is of relative insignificance. R.S.O. 1970, c. 53, s. 180.

Reserve

172. In a financial statement, the term "reserve" shall be used to describe only,

- (a) amounts appropriated from earned surplus at the discretion of management for some purpose other than to meet a liability or contingency known or admitted or a commitment made as at the statement date or a decline in value of an asset that has already occurred;
- (b) amounts appropriated from earned surplus pursuant to the articles or by-laws of the corporation for some purpose other than to meet a liability or contingency known or admitted or a commitment made as at the statement date or a decline in value of an asset that has already occurred; and
- (c) amounts appropriated from earned surplus in accordance with the terms of a contract and that can be restored to the earned surplus when the conditions of the contract are fulfilled. R.S.O. 1970, c. 53, s. 181.

Audit
committee

173.—(1) The directors of a corporation that is offering its securities to the public shall elect annually from among their number a committee to be known as the audit committee to be composed of not fewer than three directors, of whom a majority shall not be officers or employees of the

corporation or an affiliate of the corporation, to hold office until the next annual meeting of the shareholders.

(2) The members of the audit committee shall elect a **Chairman** chairman from among their number.

(3) The corporation shall submit the financial statement **Review** to the audit committee for its review and the financial statement shall thereafter be submitted to the board of directors.

(4) The auditor has the right to appear before and be **Hearing of auditor** heard at any meeting of the audit committee and shall appear before the audit committee when required to do so by the committee.

(5) Upon the request of the auditor, the chairman of the **Idem** audit committee shall convene a meeting of the committee to consider any matters the auditor believes should be brought to the attention of the directors or shareholders. R.S.O. 1970, c. 53, s. 182.

(6) The auditor of a corporation shall be entitled to **Right of auditor to be heard** attend and be heard at meetings of the board of directors of the corporation on matters relating to his duties as auditor. 1972, c. 138, s. 52.

174. The financial statement shall be approved by the **Approval by directors** board of directors and the approval shall be evidenced by the signature at the foot of the balance sheet by two of the directors duly authorized to sign or by the director where there is only one and the auditor's report, unless the corporation is exempt under section 160, shall be attached to or accompany the financial statement. R.S.O. 1970, c. 53, s. 183; 1972, c. 138, s. 53.

175.—(1) A corporation that is offering its securities **Mailing of financial statement to shareholders** to the public shall, twenty-one days or more before the date of the annual meeting of shareholders, send by pre-paid mail to each shareholder at his latest address as shown on the records of the corporation a copy of the financial statement and a copy of the auditor's report.

(2) The directors of such corporation shall send by pre- **Idem** paid mail to each such shareholder a copy of any financial statement and auditor's report amended under subsections 164 (4) and (5). R.S.O. 1970, c. 53, s. 184 (1, 2).

(3) A shareholder of a corporation that is not offering **Financial statement, on demand** its securities to the public is entitled to be furnished

by the corporation on demand with a copy of the financial statement and, unless the corporation is exempt under section 160 a copy of the auditor's report. 1972, c. 138, s. 54.

Interim
financial
statements
R.S.O. 1980,
c. 466

176.—(1) A corporation that is offering its securities to the public shall send to each shareholder a copy of an interim financial statement required to be filed under the *Securities Act* and the regulations thereunder.

Distribution
to
shareholders

(2) The interim financial statement required by subsection (1) shall be sent by prepaid mail to each shareholder, within sixty days of the date to which it is made up, at his latest address as shown on the records of the corporation. 1978, c. 49, s. 12.

INVESTIGATIONS

Investiga-
tions and
audits

177.—(1) Upon application by a shareholder of a corporation, the court, if satisfied that the application is made in good faith and that it is *prima facie* in the interests of the corporation or the holders of its securities to do so, may make an order, upon such terms as to the costs of the investigation or audit or otherwise as to the court seems fit, appointing an inspector to investigate the affairs and management of the corporation or any affiliate of the corporation, or both, and to audit the accounts and records of the corporation or any affiliate thereof named in the order.

Idem

(2) An order may be made under subsection (1) whether or not there has been disclosure to the shareholders of the corporation of information relating to any matter on the basis of which the order is made.

Production
of accounts
and records

(3) Every director, officer, agent, employee, banker and auditor of the corporation or of any affiliate of the corporation named in the order and every other person shall produce for the examination of the inspector all accounts and records of or relating to the corporation or affiliate in their custody or control.

Examination
may be
upon oath

(4) The inspector may examine upon oath any present or former director, officer, agent or employee of the corporation or affiliate in relation to its affairs, management, accounts and records.

Court
order for
examination

(5) The court may, on the application of the inspector, on such terms and conditions as it sees fit, order any person

not mentioned in subsection (4) to attend and be examined under oath before the inspector on any matter relevant to the investigation or audit. R.S.O. 1970, c. 53, s. 186 (1-5).

(6) Every director, officer, agent, employee, banker or auditor who refuses to produce any account or record referred to in subsection (3) and every person examined under subsection (4) or subsection (5) who refuses to answer any question related to the affairs and management of the corporation or any affiliate is guilty of an offence under section 250, in addition to any other liability to which he is subject. 1971, c. 26, s. 31. Offences

(7) The inspector shall make a report to the court and shall forward a copy of the report to the corporation and any affiliate of the corporation named in the order and to the person who made the application under subsection (1). R.S.O. 1970, c. 53, s. 186 (7). Inspector's report

178.—(1) A corporation may, by resolution passed at an annual meeting of shareholders or a general meeting of shareholders called for that purpose, appoint an inspector to investigate its affairs and management. Corporation may appoint inspector for same purpose

(2) The inspector appointed under subsection (1) has the same powers and shall perform the same duties as an inspector appointed under section 177 and he shall make his report in such manner and to such persons as the corporation by resolution of the shareholders directs. R.S.O. 1970, c. 53, s. 187. Powers and duties of inspector

179. A copy of the report of the inspector authenticated by the court or in the case of an investigation under section 178 by the inspector is admissible in any legal proceeding as evidence of the opinion of the inspector in relation to any matter contained in the report. R.S.O. 1970, c. 53, s. 188. Report admissible in proceedings

REORGANIZATION

Amendment of Articles

180.—(1) A corporation may, from time to time, amend its articles of incorporation to, Amendments

(a) change its name;

(b) extend, limit or otherwise vary its objects;

- (c) increase its authorized capital;
 - (d) decrease,
 - (i) its authorized capital by cancelling shares, whether issued or unissued and whether with par value or without par value, or by reducing the par value of issued or unissued shares, or
 - (ii) its issued capital, if it has shares without par value,
- and, where it has more capital than it requires, to authorize the repayment of capital to the shareholders to the extent that the issued capital is decreased in any way under this clause;
- (e) redivide its authorized capital into shares of lesser or greater par value;
 - (f) consolidate or subdivide any of its shares without par value;
 - (g) change any of its shares with par value into shares without par value;
 - (h) change any of its shares without par value into shares with par value;
 - (i) redesignate any class of shares;
 - (j) reclassify any shares with or without par value into shares of a different class;
 - (k) delete or vary any provision in its articles;
 - (l) provide for any other matter or thing that is authorized by this Act to be set out in the articles or that could be the subject of a by-law of the corporation;
 - (m) provide for restrictions on the transfer of the shares or any class thereof.

Authoriza-
tion

(2) An amendment under clauses (1) (a) to (l) shall be authorized by a special resolution.

Idem

(3) An amendment under clause (1) (m) shall be authorized by a resolution of the board of directors and confirmed in writing,

- (a) by 100 per cent of the shareholders; or
- (b) by at least 95 per cent of the shareholders holding at least 95 per cent of the issued capital,

but, in the case of confirmation under clause (b), the resolution is not effective until twenty-one days notice of the resolution has been given by sending the notice to each shareholder to his latest address as shown on the records of the corporation and only if at the expiration of the twenty-one days none of the shareholders has dissented in writing to the corporation. R.S.O. 1970, c. 53, s. 189 (1-3).

(4) Notwithstanding subsection (3), if an amendment under clause (1) (*m*) is to provide for the restrictions permitted by subsection 45 (2), such amendment shall be authorized by a special resolution. 1971, c. 26, s. 32. Idem

(5) If the amendment is to delete or vary a preference, right, condition, restriction, limitation or prohibition attaching to a class of special shares or to create special shares ranking in any respect in priority to or on a parity with an existing class of special shares, then, in addition to the confirmation required by subsection (2), the resolution is not effective until it has been confirmed, Additional authorization for variation of rights of special shareholders

- (a) by 100 per cent of the holders of the shares of such class or classes of shares in writing; or
- (b) in writing by at least 95 per cent of the holders of the shares of such class or classes of shares holding at least 95 per cent of the issued shares of such class or classes and after twenty-one days notice of the resolution and confirmation has been given by sending the notice to each of the holders of shares of such class or classes to his latest address as shown on the records of the corporation and only if at the expiration of twenty-one days none of the holders of such class or classes has dissented in writing to the corporation; or
- (c) if the articles so provide, by at least two-thirds of the votes cast at a meeting of the holders of such class or classes of shares duly called for that purpose or such greater proportion of the votes cast as the articles provide,

and by such additional authorization as the articles provide.

(6) Where an amendment to the articles that could be made under this section is made as part of an arrange- Exception

ment under sections 184, 185 and 186, the procedure provided for in those sections and not the procedure provided for in this section applies to the amendment.

Special Act
corporations
excepted

(7) This section does not apply to a corporation incorporated by special Act, except that a corporation incorporated by special Act may under this section amend its articles to change its name. R.S.O. 1970, c. 53, s. 189 (4-6).

Articles of
amendment

181.—(1) For the purpose of bringing an amendment to the articles into effect, the corporation shall deliver to the Minister, within six months after the resolution has become effective, articles of amendment in duplicate, executed under the seal of the corporation and signed by two officers, or by one director and one officer, of the corporation setting out,

- (a) the name of the corporation;
- (b) a certified copy of the resolution;
- (c) that the amendment has been duly authorized as required by subsections 180 (2), (3), (4) and (5); and
- (d) the date of the confirmation of the resolution by the shareholders.

Idem

(2) The articles of amendment shall not change the name of the corporation or decrease the authorized or issued capital of the corporation if,

- (a) it is insolvent; or
- (b) the amendment would render the corporation insolvent.

Evidence
Minister may
require

(3) The Minister may, if he thinks fit, require evidence that establishes to his satisfaction,

- (a) that the corporation is not insolvent;
- (b) that a decrease in authorized or issued capital will not render the corporation insolvent; and
- (c) that no creditors object to the amendment. 1979, c. 36, s. 12.

Certificate
of
amendment

182.—(1) Upon receiving duplicate original articles of amendment, all other required documents executed in ac-

cordance with this Act and the prescribed fee, the Minister shall,

- (a) endorse on each of the duplicate original articles a certificate setting out the day, month and year of endorsement and the corporation number;
- (b) file one duplicate original in his office; and
- (c) return to the corporation or its agent the other duplicate original.

(2) The certificate endorsed in accordance with subsection (1) constitutes the certificate of amendment to the articles of incorporation and, upon the date set out in the certificate, the articles of incorporation are amended accordingly. 1979, c. 36, s. 13. Effect of certificate

Restatement of Articles

183.—(1) A corporation may at any time restate its articles of incorporation as theretofore amended. Restatement of articles

(2) For the purpose of bringing the restated articles into effect, the corporation shall deliver to the Minister the restated articles in duplicate, executed under the seal of the corporation and signed by two officers, or by one director and one officer, of the corporation setting out, Filing of restatement

- (a) all the provisions that are then set out in the original articles of incorporation as theretofore amended; and
- (b) a statement that the restated articles correctly set out without change the corresponding provisions of the original articles as theretofore amended.

(3) Upon receiving duplicate original restated articles of incorporation restated in accordance with this Act and the prescribed fee, the Minister shall, Restatement of certificate

- (a) endorse on each of the duplicate original restated articles a certificate setting out the day, month and year of endorsement and the corporation number;
- (b) file one of the duplicate originals in his office; and
- (c) return to the corporation or its agent the other duplicate original.

Effect of
certificate

(4) The certificate endorsed in accordance with subsection (3) constitutes the restated certificate of incorporation of the corporation and the restated articles of incorporation become effective upon the date set out therein and supersede the original articles of incorporation and all amendments thereto. 1979, c. 36, s. 14.

Arrangements

Interpre-
tation

184.—(1) In this section and sections 185 and 186, “arrangement” includes a reorganization of the authorized capital of a corporation and also includes,

- (a) the consolidation of shares of different classes;
- (b) the reclassification of shares of one class into shares of another class;
- (c) the variation of the designations, preferences, rights, conditions, restrictions, limitations or prohibitions attaching to shares of any class; and
- (d) a reconstruction under which a corporation transfers or sells, or proposes to transfer or to sell, to another body corporate the whole or a substantial part of its undertaking for a consideration consisting in whole or in part of securities of the other body corporate and under which it proposes to distribute a part of that consideration among its shareholders of any class, or to cease carrying on its undertaking or that part of its undertaking so transferred or sold or so proposed to be transferred or sold.

Arrangement

(2) Subject to section 186, a corporation may make an arrangement,

- (a) that affects the rights of all its shareholders; or
- (b) that affects the rights of only holders of a particular class of its shares.

Subsidiaries

(3) Where a corporation proposing an arrangement has one or more subsidiaries, any one or more of the subsidiaries may join in the arrangement with the holding corporation in one scheme. R.S.O. 1970, c. 53, s. 193.

Scheme of
arrangement

185.—(1) A corporation proposing an arrangement shall prepare a scheme for the purpose, prescribing in detail what is to be done and the manner in which it is to be effected.

(2) The corporation shall submit the scheme to the shareholders, or to the class of them affected, as the case may be, at a meeting duly called by the corporation for the purpose of considering the scheme.

Submission
to share-
holders

(3) Where a meeting of the shareholders or of any class or classes of shareholders is called under subsection (2), the notice calling the meeting shall contain a statement explaining the effect of the arrangement and in particular stating any interest of the directors of the corporation, whether as directors or as shareholders of the corporation or otherwise, and the effect thereon of the arrangement in so far as it is different from the effect on the like interest of other persons.

Contents
of notice
calling
meeting

(4) If the shareholders of the corporation or of the class or classes affected, as the case may be, present in person or by proxy at the meeting, agree, by a vote of at least three-fourths of the shares of each class represented, to the arrangement either as proposed or as varied at the meeting, the scheme shall be deemed to have been adopted.

Approval
by share-
holders

(5) Where the scheme is deemed to have been adopted, the corporation may apply to the court for an order approving the scheme.

Approval
by court

(6) The corporation shall notify the Minister and unless the court otherwise directs, each of its dissentient shareholders, in such manner as the court may direct, of the time and place when the application for the approving order will be made.

Notice

(7) The Minister may appoint counsel to assist the court upon the hearing of an application under this section.

Counsel

(8) The court shall hear and determine the matter and may approve the scheme as presented or may approve it, subject to compliance with such terms and conditions as it thinks fit, having regard to the rights and interests of the dissentient shareholders, or any of them. R.S.O. 1970, c. 53, s. 194.

Order

186.—(1) For the purpose of bringing a scheme into effect, the corporation shall, within six months of the approval of the scheme by the court, deliver to the Minister a statement in duplicate executed under the seal of the corporation and signed by two officers, or by one director and one officer, of the corporation setting out,

Scheme

(a) the name of the corporation;

- (b) a certified copy of the scheme;
- (c) a certified copy of the order of the court; and
- (d) that the terms and conditions, if any, to which the scheme is made subject by the order have been complied with.

Certificate

(2) Upon receiving the duplicate original statements, all other required documents executed in accordance with this Act, and the prescribed fee, the Minister shall,

- (a) endorse on each of the duplicate original statements a certificate setting out the day, month and year of the endorsement and the corporation number;
- (b) file one of the duplicate originals in his office; and
- (c) return to the corporation or its agent the other duplicate original.

Effect of
certificate

(3) Upon the date set out in the certificate endorsed in accordance with subsection (2), the scheme becomes effective and constitutes an amendment to the articles. 1979, c. 36, s. 15.

Amalgamations and Continuations

Amalgamation

187.—(1) Any two or more corporations, including holding or subsidiary corporations, may amalgamate and continue as one corporation. R.S.O. 1970, c. 53, s. 196 (1).

Agreement

(2) The corporations proposing to amalgamate shall enter into an agreement for the amalgamation, prescribing its terms and conditions of the amalgamation and the mode of carrying the amalgamation into effect, and, in particular the agreement shall set out,

- (a) the name of the amalgamated corporation;
- (b) the objects of the amalgamated corporation;
- (c) the place in Ontario where the head office of the amalgamated corporation is to be located, giving the municipality and the county or district or, where the head office is to be located in territory without municipal organization, the geographic

township and district, and giving the street and number, if any;

- (d) the authorized capital of the amalgamated corporation, the classes of shares, if any, into which it is to be divided, the number of shares of each class, and the par value of each share, or, where the shares are to be without par value, the consideration, if any, exceeding which each share may not be issued or the aggregate consideration, if any, exceeding which all the shares of each class may not be issued;
- (e) where there are to be special shares, the designations, preferences, rights, conditions, restrictions, limitations or prohibitions applying to them or each class of them;
- (f) the restrictions, if any, to be placed on the transfer of its shares, or any class thereof;
- (g) the names in full and the residence address, giving the street and number, if any, of each person who is to be a first director of the amalgamated corporation;
- (h) the time and manner of election of the subsequent directors of the amalgamated corporation;
- (i) whether or not the by-laws of the amalgamated corporation are to be those of one of the amalgamating corporations, and, if not, a copy of the proposed by-laws of the amalgamated corporation;
- (j) the manner in which the issued shares of each of the amalgamating corporations are to be converted into issued shares of the amalgamated corporation;
- (k) such other details as may be necessary to perfect the amalgamation and to provide for the subsequent management and operation of the amalgamated corporation. R.S.O. 1970, c. 53, s. 196 (2); 1971, c. 26, s. 34.

(3) Where shares of one of the amalgamating corporations are held by or on behalf of another of the amalgamating corporations, the amalgamation agreement shall provide for the cancellation of such shares upon the amalgamation becoming effective without any repayment of capital in re-

Shares of
amalgamating
corporation
held by
another

spect thereof, and no provision shall be made in the agreement for the conversion of such shares into shares of the amalgamated corporation.

Approval of
agreement

(4) An amalgamation agreement is not effective until approved by a special resolution of each of the amalgamating corporations.

Approval
by special
shareholders

(5) Where the carrying out of the amalgamation agreement would result in the deletion or variation of a preference, right, condition, restriction, limitation or prohibition attaching to a class of issued special shares of any of the amalgamating corporations or in the creation of special shares of the amalgamated corporation ranking in any respect in priority to, or on a parity with, any existing class of special shares of any of the amalgamating corporations, the agreement is not effective until it is approved in the manner provided by subsection 180 (5) in addition to the approval required by subsection (4) of this section. R.S.O. 1970, c. 53, s. 196 (3-5).

Filing of
articles of
amalgamation

188.—(1) For the purpose of bringing an amalgamation into effect, the amalgamating corporations shall, within six months after the amalgamation agreement has become effective, deliver to the Minister articles of amalgamation in duplicate executed under the seal of each of the amalgamating corporations and signed by two officers, or by one director and one officer, of each of the amalgamating corporations setting out,

- (a) the names of each of the amalgamating corporations;
- (b) a certified copy of the amalgamation agreement;
- (c) that the agreement has been duly approved as required by section 187; and
- (d) the dates on which the amalgamation agreement was approved by the shareholders of each of the amalgamating corporations.

Corporation
to be solvent

(2) Notwithstanding subsection 187 (1), no corporation that is insolvent shall amalgamate and the Minister, before proceeding as provided in subsection (3), may require evidence that establishes to his satisfaction that a corporation delivering articles under subsection (1) is not insolvent.

Certificate of
amalgamation

(3) Upon receiving duplicate original articles of amalgamation, all other required documents executed in accordance with this Act and the prescribed fee, the Minister shall,

- (a) endorse on each of the duplicate original articles of amalgamation a certificate setting out the day, month and year of endorsement and the corporation number;
- (b) file one of the duplicate originals in his office; and
- (c) return to the amalgamated corporation or its agent the other duplicate original.

(4) The certificate endorsed in accordance with subsection (3) *Idem* constitutes the certificate of amalgamation of the amalgamating corporations and upon the date set out therein,

- (a) the amalgamation becomes effective and the amalgamating corporations are amalgamated and continue as one corporation under the terms and conditions set out in the amalgamation agreement;
- (b) the amalgamated corporation possesses all the property, rights, privileges and franchises and is subject to all liabilities, contracts, disabilities and debts of each of the amalgamating corporations;
- (c) the issued capital of the amalgamated corporation is, subject to the decrease provided for in subsection 187 (3), equal to the aggregate of the issued capital of each of the amalgamating corporations immediately before the amalgamation becomes effective; and
- (d) the articles of incorporation of each of the amalgamating corporations are amended to the extent necessary to give effect to the terms and conditions of the amalgamation agreement. 1979, c. 36, s. 16.

189.—(1) A body corporate incorporated under the laws of any jurisdiction other than Ontario may, if it appears to the Minister to be thereunto authorized by the laws of the jurisdiction in which it was incorporated, deliver to the Minister articles of continuation in duplicate continuing it as if it had been incorporated under this Act. 1972, c. 138, s. 55, *part.*

Articles of
continuation

(2) The articles of continuation shall set out,

Contents
of articles

- (a) the name of the corporation to be continued;
- (b) the date on which the corporation was incorporated and the jurisdiction in which it was incorporated;

- (c) the objects for which the corporation is to be continued;
- (d) the place in Ontario where the head office of the corporation is to be located, giving the municipality and the county or district or, where the head office is to be located in territory without municipal organization, the geographic township and district and the address giving the street and number, if any;
- (e) the authorized capital, the classes of shares, if any, into which it is to be divided, the number of shares of each class, and the par value of each share, or, where the shares are to be without par value, the consideration, if any, exceeding which each share may not be issued or the aggregate consideration, if any, exceeding which all the shares of each class may not be issued;
- (f) where there are to be special shares, the designations, preferences, rights, conditions, restrictions, limitations or prohibitions attaching to them or each class of them;
- (g) the restrictions, if any, to be placed on the transfer of its shares or any class thereof;
- (h) the number of directors of the corporation and the names in full and the residence address, giving the street and number, if any, of each person who is a director of the corporation;
- (i) that the continuation has been properly authorized under the laws of the jurisdiction in which the corporation was incorporated;
- (j) the date on which the continuation was authorized; and
- (k) any other matter required by this Act or the regulations to be set out in the articles,

and the articles may set out any provision that is authorized by this Act to be set out in articles or that could be the subject of a by-law of the corporation and shall be executed under the seal of the corporation and signed by two officers, or by one officer and one director of the corporation, and shall be accompanied by such other material as required by the Minister. 1972, c. 138, s. 55, *part*; 1979, c. 36, s. 17 (1).

(3) The articles of continuation shall make any amendments to the original or restated articles of incorporation, articles of amalgamation, letters patent, supplementary letters patent, a special Act and any other instrument by which the body corporate was incorporated and any amendments thereto necessary to make the articles conform to the laws of Ontario and may make such other amendments as are permitted under this Act as if the body corporate were incorporated under the laws of Ontario. 1972, c. 138, s. 55, *part*.

Amendments
to original
articles

(4) Upon receiving duplicate original articles of continuation, all other required documents executed in accordance with this Act and the prescribed fee, the Minister may,

Certificate

(a) endorse on each of the duplicate original articles of continuation a certificate setting out the day, month and year of endorsement and the corporation number;

(b) file one of the duplicate originals in his office; and

(c) return to the corporation or its agent the other duplicate original.

(5) The certificate endorsed in accordance with subsection (4) constitutes the certificate of continuation of the body corporate and the Minister may endorse the certificate upon such terms and subject to such limitations, conditions and provisions as to the Minister appear proper.

Conditions

(6) Upon the date set out in a certificate of continuation endorsed in accordance with subsections (3) and (5), this Act applies to the body corporate to the same extent as if it had been incorporated under this Act. 1979, c. 36, s. 17 (2).

Effective
date

190.—(1) A corporation may, if authorized by a special resolution, by the Minister and by the laws of any other jurisdiction, apply to the proper officer of that other jurisdiction for an instrument of continuation continuing the corporation as if it had been incorporated under the laws of that other jurisdiction. 1971, c. 26, s. 37, *part*.

Transfer of
Ontario
corporations

(2) This Act ceases to apply to the corporation on and after the date on which the corporation is continued under the laws of the other jurisdiction and the corporation shall file with the Minister a copy of the instrument of continuation certified by the proper officer of the other jurisdiction authorized to certify such documents. 1972, c. 138, s. 56.

Termination
of
jurisdiction

Application

(3) This section applies only in respect of a jurisdiction that has legislation in force that permits bodies corporate incorporated under its laws to apply for an instrument of continuation under the laws of Ontario. 1971, c. 26, s. 37, *part*.

Rights of
creditors
preserved

191. All rights of creditors against the property, rights and assets of a corporation amalgamated under section 187 or continued under section 189 and all liens upon its property, rights and assets are unimpaired by such amalgamation or continuation, and all debts, contracts, liabilities and duties of the corporation thenceforth attach to the amalgamated or continued corporation and may be enforced against it. R.S.O. 1970, c. 53, s. 200.

DISSOLUTION

*Winding Up*Interpre-
tation

192. In sections 194 to 237, “contributory” means a person who is liable to contribute to the property of a corporation in the event of the corporation being wound up under this Act. R.S.O. 1970, c. 53, s. 201.

*Voluntary Winding Up*Application
of ss. 194-206

193. Sections 194 to 206 apply to corporations being wound up voluntarily. R.S.O. 1970, c. 53, s. 202.

Voluntary
winding up

194.—(1) Where the shareholders of a corporation by a majority of the votes cast at a general meeting duly called for that purpose, or by such greater proportion of the votes cast as the articles provide, pass a resolution requiring the corporation to be wound up, the corporation may be wound up voluntarily.

Appointment
of liquidator

(2) At such meeting, the shareholders shall appoint one or more persons, who may be directors, officers or employees of the corporation, as liquidator of the estate and effects of the corporation for the purpose of winding up its affairs and distributing its property, and may at that or any subsequent general meeting fix his remuneration and the costs, charges and expenses of the winding up.

Review of
remunera-
tion by court

(3) On the application of any shareholder or creditor of the corporation or of the liquidator, the court may review

the remuneration of the liquidator and, whether or not the remuneration has been fixed by resolution, the court may fix and determine the remuneration at such amount as it thinks proper.

(4) A corporation shall file notice of a resolution requiring the voluntary winding up of the corporation with the Minister within ten days after the resolution has been passed and shall publish the notice in *The Ontario Gazette* within twenty days after the resolution has been passed. R.S.O. 1970, c. 53, s. 203.

Publication
of notice of
winding up

195. A corporation being wound up voluntarily may, in general meeting, by resolution, delegate to any committee of its shareholders, contributories or creditors, hereinafter referred to as inspectors, the power of appointing the liquidator and filling any vacancy in the office of liquidator, or may by a like resolution enter into any arrangement with its creditors with respect to the powers to be exercised by the liquidator and the manner in which they are to be exercised. R.S.O. 1970, c. 53, s. 204.

Inspectors

196. If a vacancy occurs in the office of liquidator by death, resignation or otherwise, the shareholders in general meeting may, subject to any arrangement the corporation may have entered into with its creditors upon the appointment of inspectors, fill such vacancy, and a general meeting for that purpose may be called by the continuing liquidator, if any, or by any shareholder or contributory, and shall be deemed to have been duly held if called in the manner prescribed by the articles or by-laws of the corporation, or, in default thereof, in the manner prescribed by this Act for calling general meetings of the shareholders of the corporation. R.S.O. 1970, c. 53, s. 205.

Vacancy in
office of
liquidator

197. The shareholders of the corporation may by a majority of the votes cast at a general meeting called for that purpose remove a liquidator appointed under section 194, 195 or 196, and in such case shall appoint another liquidator in his stead. R.S.O. 1970, c. 53, s. 206.

Removal of
liquidator

198. A voluntary winding up commences at the time of the passing of the resolution requiring the winding up. R.S.O. 1970, c. 53, s. 207.

Commence-
ment of
winding up

199. A corporation being wound up voluntarily shall, from the commencement of its winding up, cease to carry on its undertaking, except in so far as may be required as beneficial for the winding up thereof, and all transfers of shares, except transfers made to or with the sanction of the

Corporation
to cease
business

liquidator, or alterations in the status of the shareholders of the corporation, taking place after the commencement of its winding up are void, but its corporate existence and all its corporate powers, notwithstanding that it is otherwise provided by its articles or by-laws, continue until its affairs are wound up. R.S.O. 1970, c. 53, s. 208.

No proceedings against corporation after voluntary winding up except by leave

200. After the commencement of a voluntary winding up,

- (a) no action or other proceeding shall be commenced against the corporation; and
- (b) no attachment, sequestration, distress or execution shall be put in force against the estate or effects of the corporation,

except by leave of the court and subject to such terms as the court imposes. R.S.O. 1970, c. 53, s. 209.

List of contributories and calls

201.—(1) Upon a voluntary winding up, the liquidator,

- (a) shall settle the list of contributories;
- (b) may, before he has ascertained the sufficiency of the property of the corporation, call on all or any of the contributories for the time being settled on the list of contributories to the extent of their liability to pay any sum that he considers necessary for satisfying the liabilities of the corporation and the costs, charges and expenses of winding up and for adjusting the rights of the contributories among themselves.

List *prima facie* proof

(2) A list settled by the liquidator under clause (1) (a) is *prima facie* proof of the liability of the persons named therein to be contributories.

Default on calls

(3) The liquidator in making a call under clause (1) (b) may take into consideration the probability that some of the contributories upon whom the call is made may partly or wholly fail to pay their respective portions of the call. R.S.O. 1970, c. 53, s. 210.

Meetings of corporation during winding up

202.—(1) The liquidator may, during the continuance of the voluntary winding up, call general meetings of the shareholders of the corporation for the purpose of obtaining their approval by resolution, or for any other purpose he thinks fit.

(2) Where a voluntary winding up continues for more than one year, the liquidator shall call a general meeting of the shareholders of the corporation at the end of the first year and of each succeeding year from the commencement of the winding up, and he shall lay before the meeting an account showing his acts and dealings and the manner in which the winding up has been conducted during the immediately preceding year. R.S.O. 1970, c. 53, s. 211.

Where winding up continues more than one year

203. The liquidator, with the approval of a resolution of the shareholders of the corporation passed in general meeting or with the approval of the inspectors, may make such compromise or other arrangement as the liquidator thinks expedient with any creditor or person claiming to be a creditor or having or alleging that he has a claim, present or future, certain or contingent, liquidated or unliquidated, against the corporation or whereby the corporation may be rendered liable. R.S.O. 1970, c. 53, s. 212.

Arrangements with creditors

204. The liquidator may, with the approval referred to in section 203, compromise all debts and liabilities capable of resulting in debts, and all claims, whether present or future, certain or contingent, liquidated or unliquidated, subsisting or supposed to subsist between the corporation and any contributory, alleged contributory or other debtor or person who may be liable to the corporation and all questions in any way relating to or affecting the property of the corporation, or the winding up of the corporation, upon the receipt of such sums payable at such times and generally upon such terms as are agreed, and the liquidator may take any security for the discharge of such debts or liabilities and give a complete discharge in respect thereof. R.S.O. 1970, c. 53, s. 213.

Power to compromise with debtors and contributories

205.—(1) Where a corporation is proposed to be or is in the course of being wound up voluntarily and it is proposed to transfer the whole or a portion of its business or property to another body corporate, referred to in this subsection as the purchasing corporation, the liquidator of the first-mentioned corporation, with the approval of a resolution of the shareholders passed in general meeting of the corporation conferring either a general authority on the liquidator or an authority in respect of any particular arrangement, may receive, in compensation or in part-compensation for the transfer, cash or shares or other like interest in the purchasing corporation or any other body corporate for the purpose of distribution among the creditors or shareholders of the corporation that is being wound up in the manner set forth in the arrangement, or may, in lieu of receiving cash or shares or other like interest, or in addition thereto,

Power to accept shares, etc., as consideration for sale of property to another body corporate

participate in the profits of or receive any other benefit from the purchasing corporation or any other body corporate.

Confirmation
of sale or
arrangement

(2) A transfer made or arrangement entered into by the liquidator under this section is not binding on the shareholders of the corporation that is being wound up unless the shareholders or classes of shareholders, as the case may be, at a general meeting duly called for the purpose, by votes representing at least three-fourths of the shares or of each class of shares represented at the meeting, approve the transfer or arrangement and unless the transfer or arrangement is approved by an order made by the court on the application of the corporation.

Where
resolution
not invalid

(3) No resolution is invalid for the purposes of this section because it was passed before or concurrently with a resolution for winding up the corporation or for appointing the liquidator. R.S.O. 1970, c. 53, s. 214.

Account of
voluntary
winding up
to be made
by liquidator
to a general
meeting

206.—(1) The liquidator shall make up an account showing the manner in which the winding up has been conducted and the property of the corporation disposed of, and thereupon shall call a general meeting of the shareholders of the corporation for the purpose of having the account laid before them and hearing any explanation that may be given by the liquidator, and the meeting shall be called in the manner prescribed by the articles or by-laws or, in default thereof, in the manner prescribed by this Act for the calling of general meetings of shareholders.

Notice of
holding
of meeting

(2) The liquidator shall within ten days after the holding of the meeting file a notice with the Minister stating that the meeting was held and the date thereof.

Dissolution

(3) Subject to subsection (4), on the expiration of three months from the date of the filing of the notice the corporation is dissolved.

Extension

(4) At any time during the three-month period mentioned in subsection (3), the court may, on the application of the liquidator or any other person interested, make an order deferring the date on which the dissolution of the corporation is to take effect to a date fixed in the order, and in such event the corporation is dissolved on the date so fixed.

Dissolution
by court
order

(5) Notwithstanding anything in this Act, the court at any time after the affairs of the corporation have been fully wound up may, upon the application of the liquidator or any other person interested, make an order dissolving it, and it is dissolved on the date fixed in the order.

(6) The person on whose application an order was made under subsection (4) or (5) shall, within ten days after it was made, file with the Minister a certified copy of the order. R.S.O. 1970, c. 53, s. 215.

Copy of extension order to be filed

Winding up by Court Order

207. Sections 208 to 219 apply to corporations being wound up by order of the court. R.S.O. 1970, c. 53, s. 216.

Application of ss. 208-219

208. A corporation may be wound up by order of the court,

Winding up by court

- (a) where the shareholders by a majority of the votes cast at a general meeting called for that purpose or by such greater proportion of the votes cast as the articles provide pass a resolution authorizing an application to be made to the court to wind up the corporation;
- (b) where proceedings have been begun to wind up voluntarily and it appears to the court that it is in the interest of contributories and creditors that the proceedings should be continued under the supervision of the court;
- (c) where it is proved to the satisfaction of the court that the corporation, though it may not be insolvent, cannot by reason of its liabilities continue its business and that it is advisable to wind it up; or
- (d) where in the opinion of the court it is just and equitable for some reason, other than the bankruptcy or insolvency of the corporation, that it should be wound up. R.S.O. 1970, c. 53, s. 217.

209.—(1) A winding-up order may be made upon the application of the corporation or of a shareholder or, where the corporation is being wound up voluntarily, of the liquidator or of a contributory or of a creditor having a claim of \$1,000 or more.

Who may apply

(2) Except where the application is made by the corporation, four days notice of the application shall be given to the corporation before the making of the application. R.S.O. 1970, c. 53, s. 218.

Notice

210. The court may make the order applied for, may dismiss the application with or without costs, may adjourn

Power of court

the hearing conditionally or unconditionally or may make any interim or other order as is considered just, and upon the making of the order may, according to its practice and procedure, refer the proceedings for the winding up to an officer of the court for inquiry and report and may authorize the officer to exercise such powers of the court as are necessary for the reference. R.S.O. 1970, c. 53, s. 219.

Appoint-
ment of
liquidator

211.—(1) The court in making the winding-up order may appoint one or more persons as liquidator of the estate and effects of the corporation for the purpose of winding up its affairs and distributing its property.

Remunera-
tion

(2) The court may at any time fix the remuneration of the liquidator.

Vacancy

(3) If a liquidator appointed by the court dies or resigns or the office becomes vacant for any reason, the court may by order fill the vacancy.

Notice of
appointment

(4) A liquidator appointed by the court under this section shall forthwith give to the Minister notice in writing of his appointment and shall, within twenty days of his appointment, publish the notice in *The Ontario Gazette*. R.S.O. 1970, c. 53, s. 220.

Removal of
liquidator

212. The court may by order remove for cause a liquidator appointed by it, and in such case shall appoint another liquidator in his stead. R.S.O. 1970, c. 53, s. 221.

Costs and
expenses

213. The costs, charges and expenses of a winding up by order of the court shall be taxed by a taxing officer of the Supreme Court at Toronto. R.S.O. 1970, c. 53, s. 222.

Commence-
ment of
winding up

214. Where a winding-up order is made by the court without prior voluntary winding-up proceedings, the winding up shall be deemed to commence at the time of the service of notice of the application, and, where the application is made by the corporation, at the time the application is made. R.S.O. 1970, c. 53, s. 223.

Proceedings
in winding
up after
order

215. Where a winding-up order has been made by the court, proceedings for the winding up of the corporation shall be taken in the same manner and with the like consequences as provided for a voluntary winding up, except that the list of contributories shall be settled by the court unless it has been settled by the liquidator before the winding-up order, in which case the list is subject to review

by the court, and except that all proceedings in the winding up are subject to the order and direction of the court. R.S.O. 1970, c. 53, s. 224.

216.—(1) Where a winding-up order has been made by the court, the court may direct meetings of the shareholders of the corporation to be called, held and conducted in such manner as the court thinks fit for the purpose of ascertaining their wishes, and may appoint a person to act as chairman of any such meeting and to report the result of it to the court.

Meetings of shareholders of corporation may be ordered

(2) Where a winding-up order has been made by the court, the court may require any contributory for the time being settled on the list of contributories, or any director, officer, employee, trustee, receiver, banker or agent of the corporation to pay, deliver, convey, surrender or transfer forthwith, or within such time as the court directs, to the liquidator any sum or balance, documents, records, estate or effects that are in his hands and to which the corporation is *prima facie* entitled.

Order for delivery by contributories and others of property, etc.

(3) Where a winding-up order has been made by the court, the court may make an order for the inspection of the documents and records of the corporation by its creditors and contributories, and any documents and records in the possession of the corporation may be inspected in conformity with the order. R.S.O. 1970, c. 53, s. 225.

Inspection of documents and records

217. After the commencement of a winding up by order of the court,

Proceedings against corporation after court winding up

- (a) no action or other proceeding shall be proceeded with or commenced against the corporation; and
- (b) no attachment, sequestration, distress or execution shall be put in force against the estate or effects of the corporation,

except by leave of the court and subject to such terms as the court imposes. R.S.O. 1970, c. 53, s. 226.

218.—(1) Where the realization and distribution of the property of a corporation being wound up under an order of the court has proceeded so far that in the opinion of the court it is expedient that the liquidator should be discharged and that the property of the corporation remaining in his hands can be better realized and distributed by the court, the court may make an order discharging the liquidator and for payment, delivery and transfer into court, or to such officer or person as the court directs, of such property, and

Provision for discharge of liquidator and distribution by the court

it shall be realized and distributed by or under the direction of the court among the persons entitled thereto in the same way as nearly as may be as if the distribution were being made by the liquidator.

Disposal of documents and records

(2) In such case, the court may make an order directing how the documents and records of the corporation and of the liquidator are to be disposed of, and may order that they be deposited in court or otherwise dealt with as the court thinks fit. R.S.O. 1970, c. 53, s. 227.

Order for dissolution

219.—(1) The court at any time after the affairs of the corporation have been fully wound up may, upon the application of the liquidator or any other person interested, make an order dissolving it, and it is dissolved on the date fixed in the order.

Copy of dissolution order to be filed

(2) The person on whose application the order was made shall within ten days after it was made file with the Minister a certified copy of the order. R.S.O. 1970, c. 53, s. 228.

Winding Up Generally

Application of ss. 221-237

220. Sections 221 to 237 apply to corporations being wound up voluntarily or by order of the court. R.S.O. 1970, c. 53, s. 229.

Where no liquidator

221. Where there is no liquidator,

- (a) the court may by order on the application of a shareholder of the corporation appoint one or more persons as liquidator; and
- (b) the estate and effects of the corporation shall be under the control of the court until the appointment of a liquidator. R.S.O. 1970, c. 53, s. 230.

Consequences of winding up

222.—(1) Upon a winding up,

- (a) the liquidator shall apply the property of the corporation in satisfaction of all its debts, obligations and liabilities and, subject thereto, shall distribute the property rateably among the shareholders according to their rights and interests in the corporation;
- (b) in distributing the property of the corporation, debts to employees of the corporation for services performed for it due at the commencement of the winding up or within one month before, not exceeding three months wages and for vacation pay accrued

for not more than twelve months under the *Employment Standards Act*, and the regulations thereunder or under a collective agreement made by the corporation, shall be paid in priority to the claims of the ordinary creditors, and such persons are entitled to rank as ordinary creditors for the residue of their claims;

R.S.O. 1980,
c. 137

- (c) all the powers of the directors cease upon the appointment of a liquidator, except in so far as the liquidator may sanction the continuance of such powers.

(2) Section 53 of the *Trustee Act* applies with necessary modifications to liquidators. R.S.O. 1970, c. 53, s. 231.

Distribution
of property
R.S.O. 1980,
c. 512

223. The costs, charges and expenses of a winding up, including the remuneration of the liquidator, are payable out of the property of the corporation in priority to all other claims. R.S.O. 1970, c. 53, s. 232.

Payment of
costs and
expenses

224.—(1) A liquidator may,

Powers of
liquidators

- (a) bring or defend any action, suit or prosecution, or other legal proceedings, civil or criminal, in the name and on behalf of the corporation;
- (b) carry on the business of the corporation so far as may be required as beneficial for the winding up of the corporation;
- (c) sell the real and personal property, effects and things in action of the corporation by public auction or private sale;
- (d) do all acts and execute, in the name and on behalf of the corporation, all documents, and for that purpose use the seal of the corporation;
- (e) draw, accept, make and endorse any bill of exchange or promissory note in the name and on behalf of the corporation;
- (f) raise upon the security of the property of the corporation any requisite money;
- (g) take out in his official name letters of administration of the estate of any deceased contributory and do in his official name any other act that is necessary for obtaining payment of any money due from a con-

tributory or from his estate and which act cannot be done conveniently in the name of the corporation; and

- (h) do and execute all such other things as are necessary for winding up the affairs of the corporation and distributing its property.

Bills of exchange, etc., to be deemed drawn in the course of business

(2) The drawing, accepting, making or endorsing of a bill of exchange or promissory note by the liquidator on behalf of a corporation has the same effect with respect to the liability of the corporation as if such bill or note had been drawn, accepted, made or endorsed by or on behalf of the corporation in the course of carrying on its business.

Where moneys deemed to be due to liquidator

(3) Where the liquidator takes out letters of administration or otherwise uses his official name for obtaining payment of any money due from a contributory, such money shall be deemed, for the purpose of enabling him to take out such letters or recover such money, to be due to the liquidator himself. R.S.O. 1970, c. 53, s. 233.

Acts by more than one liquidator

225. Where more than one person is appointed as liquidator, any power conferred by sections 193 to 237 on a liquidator may be exercised by such one or more of such persons as may be determined by the resolution or order appointing them or, in default of such determination, by any number of them not fewer than two. R.S.O. 1970, c. 53, s. 234.

Nature of liability of contributory

226. The liability of a contributory creates a debt accruing due from him at the time his liability commenced, but payable at the time or respective times when calls are made for enforcing such liability. R.S.O. 1970, c. 53, s. 235.

Who liable in case of his death

227. If a contributory dies before or after he has been placed on the list of contributories, his personal representative is liable in due course of administration to contribute to the property of the corporation in discharge of the liability of the deceased contributory and shall be a contributory accordingly. R.S.O. 1970, c. 53, s. 236.

Deposit of moneys

228.—(1) The liquidator shall deposit all moneys that he has belonging to the corporation and amounting to \$100 or more in any chartered bank of Canada or in the Province of Ontario Savings Office or in any trust company or loan corporation that is registered under the *Loan and Trust Corporations Act*.

R.S.O. 1980, c. 249

(2) If inspectors have been appointed, the depository under subsection (1) shall be one approved by them.

Approval
of bank by
inspectors

(3) Such deposit shall not be made in the name of the liquidator individually, but a separate deposit account shall be kept of the money belonging to the corporation in his name as liquidator of the corporation and in the name of the inspectors, if any, and such money shall be withdrawn only by order for payment signed by the liquidator and one of the inspectors, if any.

Separate
deposit
account
to be kept;
withdrawal
from
account

(4) At every meeting of the shareholders of the corporation, the liquidator shall produce a pass-book, or statement of account showing the amount of the deposits, the dates at which they were made, the amounts withdrawn and the dates of withdrawal, and mention of such production shall be made in the minutes of the meeting, and the absence of such mention is admissible in evidence as *prima facie* proof that the pass-book or statement of account was not produced at the meeting.

Liquidators
to produce
bank
pass-book

(5) The liquidator shall also produce the pass-book or statement of account whenever so ordered by the court upon the application of the inspectors, if any, or of a shareholder of the corporation. R.S.O. 1970, c. 53, s. 237.

Idem

229. For the purpose of proving claims, sections 25, 26 and 27 of the *Assignments and Preferences Act* apply with necessary modifications, except that where the word "judge" is used therein, the word "court" as used in this Act shall be substituted. R.S.O. 1970, c. 53, s. 238.

Proving
claim
R.S.O. 1980,
c. 33

230. Upon the application of the liquidator or of the inspectors, if any, or of any creditors, the court, after hearing such parties as it directs to be notified or after such steps as the court prescribes have been taken, may by order give its direction in any matter arising in the winding up. R.S.O. 1970, c. 53, s. 239.

Application
for direction

231.—(1) The court may at any time after the commencement of the winding up summon to appear before the court or liquidator any director, officer or employee of the corporation or any other person known or suspected to have in his possession any of the estate or effects of the corporation, or alleged to be indebted to it, or any person whom the court thinks capable of giving information concerning its trade, dealings, estate or effects.

Examination
of persons
as to estate

(2) Where in the course of the winding up it appears that a person who has taken part in the formation or promotion of the corporation or that a past or present director, officer, employee, liquidator or receiver of the corporation

Damages
against
delinquent
directors,
etc.

has misapplied or retained in his own hands, or become liable or accountable for, property of the corporation, or has committed any misfeasance or breach of trust in relation to it, the court may, on the application of the liquidator or of any creditor, shareholder or contributory, examine into the conduct of that person and order him to restore the property so misapplied or retained, or for which he has become liable or accountable, or to contribute such sum to the property of the corporation by way of compensation in respect of such misapplication, retention, misfeasance or breach of trust, or both, as the court thinks just. R.S.O. 1970, c. 53, s. 240.

Proceedings
by share-
holders

232.—(1) Where a shareholder of the corporation desires to cause any proceeding to be taken that, in his opinion, would be for the benefit of the corporation, and the liquidator, under the authority of the shareholders or of the inspectors, if any, refuses or neglects to take such proceeding after being required so to do, the shareholder may obtain an order of the court authorizing him to take such proceeding in the name of the liquidator or corporation, but at his own expense and risk, upon such terms and conditions as to indemnity to the liquidator or corporation as the court prescribes.

Benefits:
when for
shareholders

(2) Any benefit derived from a proceeding under subsection (1) belongs exclusively to the shareholder causing the institution of the proceeding for his benefit and that of any other shareholder who has joined him in causing the institution of the proceeding.

when for
corporation

(3) If, before the order is granted, the liquidator signifies to the court his readiness to institute the proceeding for the benefit of the corporation, the court shall make an order prescribing the time within which he is to do so, and in that case the advantage derived from the proceeding, if instituted within such time, belongs to the corporation. R.S.O. 1970, c. 53, s. 241.

Rights
conferred by
Act to be in
addition
to other
powers

233. The rights conferred by this Act are in addition to any other right to institute proceedings against any contributory, or against any debtor of the corporation, for the recovery of any sum due from such contributory or debtor or his estate. R.S.O. 1970, c. 53, s. 242.

Stay of
winding-up
proceedings

234. At any time during a winding up, the court, upon the application of a shareholder, creditor or contributory and upon proof to its satisfaction that all proceedings in relation to the winding up ought to be stayed, may make an order staying the proceedings altogether or for a limited time on such terms and subject to such conditions as the court thinks fit. R.S.O. 1970, c. 53, s. 243.

235.—(1) Where the liquidator is unable to pay all the debts of the corporation because a creditor is unknown or his whereabouts is unknown, the liquidator may, by agreement with the Public Trustee, pay to the Public Trustee an amount equal to the amount of the debt due to the creditor to be held in trust for the creditor, and thereupon subsections 239 (5) and (6) apply thereto. Where creditor unknown

(2) A payment under subsection (1) shall be deemed to be in satisfaction of the debt for the purposes of winding up. Idem
R.S.O. 1970, c. 53, s. 244.

236.—(1) Where the liquidator is unable to distribute rateably the property of the corporation among the shareholders because a shareholder is unknown or his whereabouts is unknown, the share of the property of the corporation of such shareholder may, by agreement with the Public Trustee, be delivered or conveyed by the liquidator to the Public Trustee to be held in trust for the shareholder, and thereupon subsections 239 (5) and (6) apply thereto. Where shareholder unknown

(2) A delivery or conveyance under subsection (1) shall be deemed to be a distribution to that shareholder of his rateable share for the purposes of the winding up. Idem
R.S.O. 1970, c. 53, s. 245.

237.—(1) Where a corporation has been wound up under sections 193 to 236 and is about to be dissolved, its documents and records and those of the liquidator may be disposed of as it by resolution directs in case of voluntary winding up, or as the court directs in case of winding up under an order. Disposal of records, etc., after winding up

(2) After the expiration of five years from the date of the dissolution of the corporation, no responsibility rests on it or the liquidator, or anyone to whom the custody of the documents and records has been committed, by reason that the same or any of them are not forthcoming to any person claiming to be interested therein. When responsibility as to custody of records, etc., to cease
R.S.O. 1970, c. 53, s. 246.

Other Dissolution

238. A corporation may be dissolved upon the authorization of, Voluntary dissolution

- (a) a majority of the votes cast at a general meeting of the shareholders of the corporation duly called for the purpose or by such other proportion of the votes cast as the articles provide; but such other

proportion shall not be less than 50 per cent of the votes of all the shareholders entitled to vote at the meeting;

- (b) the consent in writing of all the shareholders entitled to vote at such meeting; or
- (c) all its incorporators or their personal representatives at any time within two years after the date set forth in its certificate of incorporation where the corporation has not commenced business and has not issued any shares. R.S.O. 1970, c. 53, s. 247; 1971, c. 26, s. 38.

Articles of
dissolution
where
corporation
active

239.—(1) For the purpose of bringing the dissolution authorized under clause 238 (a) or (b) into effect, the corporation shall deliver to the Minister articles of dissolution in duplicate, executed under seal of the corporation and signed by two officers, or by one director and one officer, of the corporation setting out,

- (a) the name of the corporation;
- (b) that its dissolution has been duly authorized under clause 238 (a) or (b);
- (c) that it has no debts, obligations or liabilities or its debts, obligations or liabilities have been duly provided for in accordance with subsection (3) or its creditors or other persons having interests in its debts, obligations or liabilities consent to its dissolution;
- (d) that after satisfying the interests of creditors in all its debts, obligations and liabilities, if any, it has no property to distribute among its shareholders or that it has distributed its remaining property rateably among its shareholders according to their rights and interests in the corporation or in accordance with subsection (4) where applicable;
- (e) that there are no proceedings pending in any court against it; and
- (f) that it has given notice of its intention to dissolve by publication once in *The Ontario Gazette* and once in a newspaper having general circulation in the place where it has its principal place of business in Ontario or, if it does not have a place of business in Ontario, where it has its head office. 1979, c. 36, s. 18 (1).

(2) For the purpose of bringing a dissolution authorized under clause 238 (c) into effect, the corporation shall deliver to the Minister articles of dissolution in duplicate, signed by all its incorporators or their personal representatives setting out,

Articles of
dissolution
where
corporation
never active

- (a) the name of the corporation;
- (b) the date set forth in its certificate of incorporation;
- (c) that the corporation has not commenced business;
- (d) that none of its shares has been issued;
- (e) that dissolution has been duly authorized under clause 238 (c);
- (f) that it has no debts, obligations or liabilities;
- (g) that after satisfying the interests of creditors in all its debts, obligations and liabilities, if any, it has no property to distribute or that it has distributed its remaining property to the persons entitled thereto;
- (h) that there are no proceedings pending in any court against it; and
- (i) that it has given notice of its intention to dissolve by publication once in *The Ontario Gazette* and once in a newspaper having general circulation in the place where it has its head office. R.S.O. 1970, c. 53, s. 248 (2); 1971, c. 26, s. 39; 1979, c. 36, s. 18 (2).

(3) Where a corporation authorizes its dissolution and a creditor is unknown or his whereabouts is unknown, the corporation may, by agreement with the Public Trustee, pay to the Public Trustee an amount equal to the amount of the debt due to the creditor to be held in trust for the creditor, and such payment shall be deemed to be due provision for the debt for the purposes of clause (1) (c).

Where
creditor
unknown

(4) Where a corporation authorizes its dissolution and a shareholder is unknown or his whereabouts is unknown, it may, by agreement with the Public Trustee, deliver or convey his share of the property to the Public Trustee to be held in trust for him, and such delivery or conveyance shall be deemed to be a distribution to that shareholder of his rateable share for the purposes of the dissolution.

Where
shareholder
unknown

Power to
convert

(5) If the share of the property so delivered or conveyed to the Public Trustee under subsection (4) is in a form other than cash, the Public Trustee may at any time, and within ten years after such delivery or conveyance shall, convert it into cash.

Payment
to person
entitled

(6) If the amount paid under subsection (3) or the share of the property delivered or conveyed under subsection (4) or its equivalent in cash, as the case may be, is claimed by the person beneficially entitled thereto within ten years after it was so delivered, conveyed or paid, it shall be delivered, conveyed or paid to him, but, if not so claimed, it vests in the Public Trustee for the use of Ontario, and, if the person beneficially entitled thereto at any time thereafter establishes his right thereto to the satisfaction of the Lieutenant Governor in Council, an amount equal to the amount so vested in the Public Trustee shall be paid to him. R.S.O. 1970, c. 53, s. 248 (3-6).

Certificate
of
dissolution

240.—(1) Upon receiving duplicate original articles of dissolution, all other required documents executed in accordance with this Act, the prescribed fee and evidence that all taxes payable by the corporation to the Treasurer of Ontario have been paid, the Minister shall,

- (a) endorse on each of the duplicate original articles of dissolution, a certificate setting forth the day, month and year of endorsement and the corporation number;
- (b) file one of the duplicate originals in his office;
- (c) return to the persons who executed the articles of dissolution, or their agents, the other duplicate original.

Effect of
certificate

(2) The certificate endorsed in accordance with subsection (1) constitutes the certificate of dissolution of the corporation and the dissolution becomes effective and the corporation is dissolved upon the date set out therein. 1979, c. 36, s. 19, *part*.

Cancellation
of
certificate,
etc., by
Minister

241. Where sufficient cause is shown to the Minister, he may, after he has given the corporation an opportunity to be heard, by order, upon such terms as he thinks fit, cancel a certificate of incorporation or any certificate issued or endorsed by him under this Act, and,

- (a) in the case of the cancellation of a certificate of incorporation, the corporation is dissolved on the date fixed in the order; and

- (b) in the case of the cancellation of any other certificate, the matter that became effective upon the issuance or endorsement of the certificate ceases to be in effect from the date fixed in the order. 1979, c. 36, s. 19, *part*.

242.—(1) Where the Minister is notified by the Minister of Revenue that a corporation is in default in complying with the provisions of the *Corporations Tax Act*, the Minister may give notice by registered mail to the corporation or by publication once in *The Ontario Gazette* that an order dissolving the corporation will be issued unless the corporation remedies its default within ninety days after the giving of the notice. 1976, c. 67, s. 1, *part*.

Notice of
dissolution

R.S.O. 1980,
c. 97

(2) Where the Minister is notified by the Commission that a corporation has not complied with sections 76 and 77 of the *Securities Act*, the Minister may give notice by registered mail to the corporation or by publication once in *The Ontario Gazette* that an order dissolving the corporation will be issued unless the corporation complies with sections 76 and 77 of the *Securities Act*, within ninety days after the giving of the notice. 1976, c. 67, s. 1, *part*; 1978, c. 49, s. 13.

Idem

R.S.O. 1980,
c. 466

(3) Upon default in compliance with the notice given under subsection (1) or (2), the Minister may by order cancel the certificate of incorporation and, subject to subsection (4), the corporation is dissolved on the date fixed in the order.

Order for
dissolution

(4) Where a corporation is dissolved under subsection (3) or any predecessor thereof, the Minister, on the application of any interested person immediately before the dissolution, made within two years after the date of dissolution, may in his discretion by order, on such terms and conditions as he sees fit to impose, revive the corporation and thereupon the corporation, subject to the terms and conditions of the order and to any rights acquired by any person after its dissolution, is restored to its legal position, including all its property, rights, privileges and franchises, and is subject to all its liabilities, contracts, disabilities and debts, as of the date of its dissolution, in the same manner and to the same extent as if it had not been dissolved. 1976, c. 67, s. 1, *part*.

Revival

243.—(1) Notwithstanding the dissolution of a corporation under section 240, 241 or 242,

Suits after
dissolution

- (a) any action, suit or other proceeding commenced by or against the corporation before its dissolution may be

proceeded with as if the corporation had not been dissolved;

- (b) any action, suit or other proceeding may be brought against the corporation within two years after its dissolution as if the corporation had not been dissolved; and
- (c) any property that would have been available to satisfy any judgment, order or other decision if the corporation had not been dissolved remains available for such purpose. 1971, c. 26, s. 41.

Service
after
dissolution

(2) For the purposes of this section, the service of any process on a corporation after its dissolution shall be deemed to be sufficiently made if it is made upon any person last shown on the records of the Ministry as being a director or officer of the corporation before the dissolution. R.S.O. 1970, c. 53, s. 252 (2); 1972, c. 1, s. 1.

Liability
of share-
holders to
creditors

244.—(1) Notwithstanding the dissolution of a corporation, each of the shareholders among whom its property has been distributed remains liable to its creditors to the extent of the amount received by him upon the distribution, and an action in a court of competent jurisdiction to enforce such liability may be brought against him within two years from the date of the dissolution and not thereafter.

Action
against
one share-
holder as
representing
class

(2) Where there are numerous shareholders, the court referred to in subsection (1) may permit an action to be brought against one or more shareholders as representatives of the class and, if the plaintiff establishes his claim as creditor, may make an order of reference and add as parties in the referee's office all such shareholders as are found, and the referee shall determine the amount that each should contribute towards the plaintiff's claim and may direct payment of the sums so determined. R.S.O. 1970, c. 53, s. 253.

Forefeiture
of undisposed
property

245. Subject to section 243, any real or personal property of a corporation that has not been disposed of at the date of its dissolution is forfeit to the Crown. R.S.O. 1970, c. 53, s. 254.

GENERAL

Notice to
directors and
shareholders

246.—(1) Subject to the articles or by-laws of a corporation,

- (a) a notice or other document required to be given or sent by a corporation to a shareholder or director may be delivered personally or sent by prepaid mail addressed to the shareholder or director at his latest address as shown on the records of the corporation; and
- (b) a notice or other document sent by mail by a corporation to a shareholder or director shall be deemed to be given or sent at the time when it would be delivered in the ordinary course of mail. R.S.O. 1970, c. 53, s. 255 (1).

(2) Where notices or other documents required by this Act, the articles or by-laws to be given or sent by a corporation to a shareholder have been mailed to the shareholder at his latest address as shown on the records of the corporation and where, on three consecutive occasions, notices or other documents have been returned by the Post Office to the corporation, the corporation is not required to mail to the shareholder any further notices or other documents until such time as the corporation receives written notice from the shareholder requesting that notices and other documents be sent to the shareholder at a specified address. 1972, c. 138, s. 59. Undelivered mail

(3) Except where otherwise provided in this Act, a notice or document required to be given or sent to a corporation may be sent to the corporation by prepaid mail at its head office as shown on the records of the Ministry and shall be deemed to be given or sent at the time when it would be delivered in the ordinary course of mail. R.S.O. 1970, c. 53, s. 255 (2); 1972, c. 1, s. 1. Notice to corporation

(4) Where a notice is required by this Act to be given to any person, the giving of the notice may be waived or the time for the notice may be waived or abridged with the consent in writing of such person, whether before or after the time prescribed. 1971, c. 26, s. 42. Waiver of notice and abridgement of times

247.—(1) Every person who makes or assists in making a statement in any document required by or for the purposes of this Act or the regulations that, at the time and in the light of the circumstances under which it was made, is false or misleading in respect of any material fact or that omits to state any material fact the omission of which makes the statement false or misleading is guilty of an offence and on conviction is liable to a fine of not more than \$2,000 or to imprisonment for a term of not more than one year, or to both. Offence, false statements

Defence

(2) No person is guilty of an offence under subsection (1) if he did not know that the statement was false or misleading and in the exercise of reasonable diligence could not have known that the statement was false or misleading. R.S.O. 1970, c. 53, s. 256.

Offence,
failure
to file

248.—(1) Every person who fails to file with the Minister any document required by this Act to be filed with him is guilty of an offence and on conviction is liable to a fine of not more than \$2,000 or, if such person is a body corporate, to a fine of not more than \$20,000.

Idem

(2) Where a body corporate is guilty of an offence under subsection (1), every director or officer thereof who authorized, permitted or acquiesced in such offence is also guilty of an offence and on conviction is liable to a fine of not more than \$2,000. R.S.O. 1970, c. 53, s. 257.

Consent

249. No proceeding under section 247 or 248 shall be commenced except with the consent or under the direction of the Minister. R.S.O. 1970, c. 53, s. 258.

Offence,
general

250.—(1) Except where otherwise provided, every person who commits an act contrary to or fails or neglects to comply with any provision of this Act or the regulations is guilty of an offence and on conviction is liable to a fine of not more than \$1,000 or, if such person is a body corporate, to a fine of not more than \$10,000.

Idem

(2) Where a body corporate is guilty of an offence under subsection (1), every director or officer thereof who authorized, permitted or acquiesced in the offence is also guilty of an offence and on conviction is liable to a fine of not more than \$1,000. R.S.O. 1970, c. 53, s. 259.

Limitation

251.—(1) No proceeding under section 247 or 248, or under section 250 for a contravention of section 154, shall be commenced more than one year after the facts upon which the proceedings are based first came to the knowledge of the Minister as certified by him. R.S.O. 1970, c. 53, s. 260 (1).

Idem

(2) Subject to subsection (1), no proceeding for an offence under this Act or the regulations shall be commenced more than one year after the time when the subject-matter of the offence arose. R.S.O. 1970, c. 53, s. 260 (3); 1978, c. 49, s. 14 (2).

252.—(1) Where a corporation or a director, officer or employee of a corporation does not comply with any provision of this Act, the articles or the by-laws of the corporation, a shareholder or a creditor of the corporation, notwithstanding the imposition of any penalty in respect of such non-compliance and in addition to any other rights he may have, may apply to the court for an order directing the corporation, director, officer or employee, as the case may be, to comply with such provision, and upon such an application the court may make such order or such other order as the court thinks fit. R.S.O. 1970, c. 53, s. 261 (1). Orders for compliance

(2) Where it appears to the Commission that any person or corporation to which section 115 or subsection 116 (1) applies has failed to comply with or is contravening any such provision, the Commission may, notwithstanding the imposition of any penalty in respect of such non-compliance or contravention and in addition to any other rights it may have, apply to the court for an order, Idem

- (a) directing such person or corporation to comply with such provision or restraining such person or corporation from contravening such provision; and
- (b) directing the directors and senior officers of such person or corporation to cause such person or corporation to comply with or to cease contravening any such provision,

and upon such application, the court may make such order or such other order as the court thinks fit. 1978, c. 49, s. 15.

253. The Minister may delegate in writing any of his duties or powers under this Act to any public servant in the Ministry. R.S.O. 1970, c. 53, s. 262; 1972, c. 1, s. 1. Powers of Minister

254.—(1) The Minister may require any fact relevant to the performance of his duties under this Act or the regulations to be verified by affidavit or otherwise. Proof by affidavit

(2) For the purpose of holding a hearing under this Act, the Minister may administer oaths to witnesses and require them to give evidence under oath. R.S.O. 1970, c. 53, s. 263. Oaths at hearings

255. The Minister shall cause notice to be published forthwith in *The Ontario Gazette*, Publication of notices in The Ontario Gazette

- (a) of the endorsement of every certificate under section 5, 30, 182, 186, 188, 189 or 240;
- (b) of the issue of every certificate under section 11;

(c) of the filing of a certified copy of an order under subsection 206 (6) or subsection 219 (2);

(d) of the filing of a notice by a liquidator under subsection 206 (2); and

(e) of the issue of every order under section 154, 241 or 242. 1979, c. 36, s. 20.

Searches

256.—(1) Upon payment of the prescribed fee, any person is entitled to examine any document filed with or issued by the Minister under this Act, and to make extracts therefrom.

Certifications by Minister

(2) Upon payment of the prescribed fee, the Minister shall furnish any person with a certificate as to whether or not a document has been filed with or issued by him under this Act or any predecessor thereof or with a certified copy of any such document. R.S.O. 1970, c. 53, s. 265.

Execution of certificates of Minister

257.—(1) Where this Act requires or authorizes the Minister to issue a certificate or certify any fact, the certificate shall be issued under the seal of the Minister and shall be signed by him or by such officer of the Ministry as is designated by the regulations. R.S.O. 1970, c. 53, s. 266 (1); 1972, c. 1, s. 1.

Certificates as evidence

(2) Any certificate purporting to be under the seal of the Minister and signed by a person authorized by or under subsection (1), or any certified copy, is receivable in evidence in any action, prosecution or other proceeding as *prima facie* proof of the facts so certified without proof of the seal or of the signature or the official position of the person appearing to have signed the certificate. R.S.O. 1970, c. 53, s. 266 (2).

Reproduction of signature

(3) For the purposes of subsections (1) and (2), any signature of the Minister or any signature of an officer of the Ministry designated by the regulations may be printed or otherwise mechanically reproduced. 1979, c. 36, s. 21.

Date of certificate

258.—(1) A certificate or authorization referred to in sections 5, 30, 182, 186, 188, 189, 190 and 240 or an order referred to in subsection 242 (4) shall be dated as of the day the Minister receives the duplicate originals of any articles, statement or application together with all other required documents executed in accordance with this Act and the prescribed fee, or as of any later date acceptable to the Minister and specified by the person who signed the articles, statement or application.

(2) Articles filed by the Minister under this Act shall have effect from the date of the certificate endorsed thereon notwithstanding that any action required to be taken by the Minister under this Act with respect to the endorsement of the certificate and filing by him is taken at a later date. 1979, c. 36, s. 22, *part*.

Date of
articles

259.—(1) If a certificate is endorsed by the Minister on articles or any other document that contains an error, the directors or shareholders of the corporation shall, upon the request of the Minister, pass the resolutions and send to him the documents required to comply with this Act, and take such other steps as the Minister may reasonably require, and the Minister may order the surrender of the certificate and endorse a corrected certificate on the articles or any other document after giving the corporation an opportunity to be heard.

Corrected
certificate

(2) A certificate corrected under subsection (1) shall bear the date of the certificate it replaces and shall be deemed to be in effect on that date.

Date

(3) If a corrected certificate issued under subsection (1) materially amends the terms of the original certificate, the Minister shall forthwith give notice of the correction in *The Ontario Gazette*. 1979, c. 36, s. 22, *part*.

Notice

260.—(1) Where the Minister refuses to endorse a certificate on articles or any other document required by this Act to be endorsed with a certificate by him before it becomes effective, he shall give written notice to the person who delivered the articles or other document of his refusal, specifying the reasons therefor.

Notice of
refusal
to file

(2) Where, within six months after the delivery to the Minister of articles or other documents referred to in subsection (1), the Minister has not endorsed a certificate on such articles or other document, he shall be deemed for the purposes of section 261 to have refused to endorse it. 1979, c. 36, s. 23.

Failure to
act deemed
refusal

261.—(1) Any person who feels aggrieved by a decision of the Minister to,

Appeal from
Minister to
Divisional
Court

- (a) refuse to endorse a certificate on articles or any other document;
- (b) issue or refuse to issue a certificate of amendment under subsection 11 (1), (2) or (3);
- (c) issue an order under section 241;

(d) order the surrender of a certificate under section 259,

may appeal the decision to the Divisional Court. 1979, c. 36, s. 24 (1).

Certificate
of Minister

(2) The Minister shall certify to the Registrar of the Supreme Court,

(a) the decision of the Minister, together with a statement of the reasons therefor;

(b) the record of any hearing; and

(c) all written submissions to the Minister or other material that is relevant to the appeal.

Represent-
tation

(3) The Minister is entitled to be heard, by counsel or otherwise, upon the argument of an appeal under this section. R.S.O. 1970, c. 53, s. 268 (2-4).

Order of
court

(4) Where an appeal is taken under this section, the court may by its order direct the Minister to make such decision or to do such other act as the Minister is authorized and empowered to do under this Act and as the court thinks proper, having regard to the material and submissions before it and to this Act, and the Minister shall make such decision or do such act accordingly. R.S.O. 1970, c. 53, s. 268 (5); 1979, c. 36, s. 24 (2).

Minister
may make
further
decision

(5) Notwithstanding an order of the court, the Minister has power to make any further decision upon new material or where there is a material change in the circumstances, and every such decision is subject to this section. R.S.O. 1970, c. 53, s. 268 (6); 1979, c. 36, s. 24 (3).

Appeal
from
Commission
R.S.O. 1980,
c. 466.

262. Any person or corporation directly affected by a decision of the Commission under this Act may appeal to the Divisional Court and subsections 9 (2) to (6) of the *Securities Act* apply to the appeal. 1978, c. 49, s. 16.

Regulations

263. The Lieutenant Governor in Council may make regulations respecting any matter that he considers necessary relating to the incorporation, conduct and dissolution of corporations including, without limiting the generality of the foregoing, regulations,

(a) respecting names of corporations or classes thereof, objects of corporations, authorized capital of cor-

porations, the designation, preferences, rights, conditions, restrictions, limitations and prohibitions attaching to shares or classes of shares of corporations, or any other matter pertaining to articles or the filing thereof;

- (b) requiring the payment of fees for any matter that the Minister is required or authorized to do under this Act, and prescribing the amounts thereof;
- (c) prescribing any matter required by this Act to be prescribed by the regulations;
- (d) designating officers of the Ministry for the purposes of paragraph 7 of subsection 1 (1) and section 257;
- (e) respecting the form and content of information circulars required by section 116;
- (f) prohibiting the use of any words or expressions in a corporate name;
- (g) prescribing requirements for the purposes of clause 7 (1) (c);
- (h) prescribing conditions for the purposes of subsection 7 (2);
- (i) respecting the content of a special language provision referred to in subsection 8 (2) permitting punctuation marks and other marks referred to in subsection 8 (3);
- (j) defining any word or expression used in clause 7 (1) (b);
- (k) prescribing the matters that the Minister shall take into consideration in determining whether a name is contrary to section 7. R.S.O. 1970, c. 53, s. 271; 1972, c. 1, s. 1; 1978, c. 49, s. 17; 1979, c. 36, s. 25.

264. The provisions of the *Corporations Act* relating to the liability of the holder of shares that are not fully paid and to the enforcement of such liability continue to apply in respect of shares that are not fully paid on the 1st day of January, 1971. R.S.O. 1970, c. 53, s. 272 (2).

Continuance
re shares
not fully
paid
R.S.O. 1980,
c. 95

CHAPTER 55

Business Practices Act

1. In this Act,

Interpre-
tation

- (a) “business premises” does not include a dwelling;
- (b) “consumer” means a natural person but does not include a natural person, partnership or association of individuals acting in the course of carrying on business;
- (c) “consumer representation” means a representation, statement, offer, request or proposal,
 - (i) made respecting or with a view to the supplying of goods or services, or both, to a consumer, or
 - (ii) made for the purpose of or with a view to receiving consideration for goods or services, or both, supplied or purporting to have been supplied to a consumer;
- (d) “Director” means the Director under the *Ministry of Consumer and Commercial Relations Act*; R.S.O. 1980, c. 274
- (e) “dwelling” means a premises or any part thereof occupied as living accommodation;
- (f) “goods” means chattels personal or any right or interest therein other than things in action and money, including chattels that become fixtures but not including securities as defined in the *Securities Act*; R.S.O. 1980, c. 466
- (g) “Minister” means the Minister of Consumer and Commercial Relations;
- (h) “regulations” means the regulations made under this Act;

(i) "services" means services,

(i) provided in respect of goods or of real property, or

(ii) provided for social, recreational or self-improvement purposes, or

(iii) that are in their nature instructional or educational;

(j) "Tribunal" means The Commercial Registration Appeal Tribunal under the *Ministry of Consumer and Commercial Relations Act*. 1974, c. 131, s. 1.

R.S.O. 1980,
c. 274

Unfair
practices

2. For the purposes of this Act, the following shall be deemed to be unfair practices,

(a) a false, misleading or deceptive consumer representation including, but without limiting the generality of the foregoing,

(i) a representation that the goods or services have sponsorship, approval, performance characteristics, accessories, uses, ingredients, benefits or quantities they do not have,

(ii) a representation that the person who is to supply the goods or services has sponsorship, approval, status, affiliation or connection he does not have,

(iii) a representation that the goods are of a particular standard, quality, grade, style or model, if they are not,

(iv) a representation that the goods are new, or unused, if they are not or are reconditioned or reclaimed, provided that the reasonable use of goods to enable the seller to service, prepare, test and deliver the goods for the purpose of sale shall not be deemed to make the goods used for the purposes of this subclause,

- (v) a representation that the goods have been used to an extent that is materially different from the fact,
 - (vi) a representation that the goods or services are available for a reason that does not exist,
 - (vii) a representation that the goods or services have been supplied in accordance with a previous representation, if they have not,
 - (viii) a representation that the goods or services or any part thereof are available to the consumer when the person making the representation knows or ought to know they will not be supplied,
 - (ix) a representation that a service, part, replacement or repair is needed, if it is not,
 - (x) a representation that a specific price advantage exists, if it does not,
 - (xi) a representation that misrepresents the authority of a salesman, representative, employee or agent to negotiate the final terms of the proposed transaction,
 - (xii) a representation that the proposed transaction involves or does not involve rights, remedies or obligations if the representation is false or misleading,
 - (xiii) a representation using exaggeration, innuendo or ambiguity as to a material fact or failing to state a material fact if such use or failure deceives or tends to deceive,
 - (xiv) a representation that misrepresents the purpose or intent of any solicitation of or any communication with a consumer;
- (b) an unconscionable consumer representation made in respect of a particular transaction and in determining whether or not a consumer representation is unconscionable there may be taken into account that the person making the representation or his employer or principal knows or ought to know,
- (i) that the consumer is not reasonably able to protect his interests because of his physical infirmity, ignorance, illiteracy, inability to

understand the language of an agreement or similar factors,

- (ii) that the price grossly exceeds the price at which similar goods or services are readily available to like consumers,
 - (iii) that the consumer is unable to receive a substantial benefit from the subject-matter of the consumer representation,
 - (iv) that there is no reasonable probability of payment of the obligation in full by the consumer,
 - (v) that the proposed transaction is excessively one-sided in favour of someone other than the consumer,
 - (vi) that the terms or conditions of the proposed transaction are so adverse to the consumer as to be inequitable,
 - (vii) that he is making a misleading statement of opinion on which the consumer is likely to rely to his detriment,
 - (viii) that he is subjecting the consumer to undue pressure to enter into the transaction;
- (c) such other consumer representations under clause (a) as are prescribed by the regulations made in accordance with section 16. 1974, c. 131, s. 2.

Unfair
practices
prohibited

One act
deemed
practice

3.—(1) No person shall engage in an unfair practice.

(2) A person who performs one act referred to in section 2 shall be deemed to be engaging in an unfair practice. 1974, c. 131, s. 3.

Rescission

4.—(1) Subject to subsection (2), any agreement, whether written, oral or implied, entered into by a consumer after a consumer representation that is an unfair practice and that induced the consumer to enter into the agreement,

- (a) may be rescinded by the consumer and the consumer is entitled to any remedy therefor that is at law available, including damages; or
- (b) where rescission is not possible because restitution is no longer possible, or because rescission would

deprive a third party of a right in the subject-matter of the agreement that he has acquired in good faith and for value, the consumer is entitled to recover the amount by which the amount paid under the agreement exceeds the fair value of the goods or services received under the agreement or damages, or both.

(2) Where the unfair practice referred to in subsection (1) comes within clause 2 (b), the court may award exemplary or punitive damages.

(3) Each person who makes the consumer representation referred to in subsection (1) is liable jointly and severally with the person who entered into the agreement with the consumer for any amount that the consumer is entitled to under subsections (1) and (2).

(4) Notwithstanding subsection 31 (2) of the *Consumer Protection Act*, the liability of an assignee of an agreement under subsection (1) or of any right to payment thereunder is limited to the amount paid to the assignee under the agreement.

(5) A remedy conferred by subsection (1) may be claimed by the giving of notice of the claim by the consumer in writing to each other party to the agreement within six months after the agreement is entered into.

(6) A notice under subsection (5) may be delivered personally or sent by registered mail addressed to the person to whom delivery is required to be made, and delivery by registered mail shall be deemed to have been made at the time of mailing.

(7) In the trial of an issue under subsection (1), oral evidence respecting an unfair practice is admissible notwithstanding that there is a written agreement and notwithstanding that the evidence pertains to a representation of a term, condition or undertaking that is or is not provided for in the agreement.

(8) This section applies notwithstanding any agreement or waiver to the contrary.

(9) Subsection (3) does not apply to a person who, on behalf of another person, prints, publishes, distributes, broadcasts or telecasts a representation or an advertisement that he accepts in good faith for printing, publishing, distributing, broadcasting or telecasting in the ordinary course of his business. 1974, c. 131, s. 4.

Duties of
Director

5. The Director shall,

- (a) perform such duties and exercise such powers as are given to or conferred upon the Director under this or any other Act;
- (b) receive and act on or mediate complaints respecting unfair practices;
- (c) maintain available for public inspection a record of,
 - (i) assurances of voluntary compliance entered into under this Act,
 - (ii) orders to cease engaging in unfair practices issued under this Act. 1974, c. 131, s. 5.

Order to
cease unfair
practice

6.—(1) Where the Director believes on reasonable and probable grounds that any person is engaging or has engaged in an unfair practice, the Director may order such person to comply with section 3 in respect of the unfair practice specified in the order.

Notice of
proposal

(2) Where the Director proposes to make an order under subsection (1), he shall serve notice of his proposal on each person to be named in the order together with written reasons therefor.

Request
for
hearing

(3) A notice under subsection (2) shall inform each person to be named in the order that he is entitled to a hearing by the Tribunal if he mails or delivers within fifteen days after the notice under subsection (2) is served on him notice in writing requiring a hearing to the Director and the Tribunal and he may so require such a hearing.

Failure
to request
hearing

(4) Where a person upon whom a notice is served under subsection (2) does not require a hearing by the Tribunal in accordance with subsection (3), the Director may carry out the proposal stated in the notice.

Hearing

(5) Where a person requires a hearing by the Tribunal in accordance with subsection (3), the Tribunal shall appoint a time for and hold the hearing and, on the application of the Director at the hearing, may by order direct the Director to carry out his proposal or to refrain from carrying out his proposal and to take such action as the Tribunal considers the Director ought to take in accordance with this Act and the regulations and for such purposes the Tribunal may substitute its opinion for that of the Director.

(6) The Tribunal may attach such terms and conditions ^{Conditions} to its order as it considers proper to give effect to the purposes of this Act.

(7) The Director and the person who has required the ^{Parties} hearing and such other persons as the Tribunal may specify are parties to proceedings before the Tribunal under this section. 1974, c. 131, s. 6.

7.—(1) Notwithstanding section 6, the Director may make an ^{Order for immediate compliance} order under subsection 6 (1) to take effect immediately where, in his opinion, to do so is necessary for the protection of the public and, subject to subsections (3) and (4), the order takes effect immediately.

(2) Where the Director makes an order under subsection (1), he shall serve each person named in the order with a copy of the order together with written reasons therefor and a notice containing the information required to be in a notice referred to in subsections 6 (2) and (3). ^{Notice of order}

(3) Where a person named in the order requires a hearing ^{Hearing} by the Tribunal in accordance with the notice under subsection (2), the Tribunal shall appoint a time for and hold the hearing and may confirm or set aside the order or exercise such other powers as may be exercised in a proceeding under section 6.

(4) Where a hearing by the Tribunal is required, the ^{Expiration of order} order expires fifteen days after the giving of the notice requiring the hearing but, where the hearing is commenced before the expiration of the order, the Tribunal may extend the time of expiration until the hearing is concluded.

(5) The Director and the person who has required the ^{Parties} hearing and such other persons having a direct interest in the order as the Tribunal may specify are parties to proceedings before the Tribunal under this section. 1974, c. 131, s. 7.

8. Notwithstanding that, under section 11 of the *Ministry of Consumer and Commercial Relations Act*, an appeal is taken from an order of the Tribunal made under section 6 or 7, the order takes effect immediately but the Tribunal may grant a stay until the disposition of the appeal. 1974, c. 131, s. 8. ^{Stay R.S.O. 1980, c. 274}

9.—(1) Any person against whom the Director proposes ^{Assurance of voluntary compliance} to make an order to comply with section 3 may enter into a written assurance of voluntary compliance in the prescribed form undertaking to not engage in the specified unfair practices after the date thereof.

Assurance
deemed
order

(2) Where an assurance of voluntary compliance is accepted by the Director, the assurance has and shall be given for all purposes of this Act the force and effect of an order made by the Director.

Under-
takings

(3) An assurance of voluntary compliance may include such undertakings as are acceptable to the Director and the Director may receive a bond and collateral therefor as security for the reimbursement of consumers and reimbursement of the Treasurer of Ontario for investigation and other costs in such amount as is satisfactory to the Director. 1974, c. 131, s. 9.

Investiga-
tions by
order of
Minister

R.S.O. 1980,
c. 411

10. The Minister may by order appoint a person to make an investigation into any matter to which this Act applies as may be specified in the Minister's order and the person appointed shall report the result of his investigation to the Minister and, for the purposes of the investigation, the person making it has the powers of a commission under Part II of the *Public Inquiries Act*, which Part applies to such investigation as if it were an inquiry under that Act. 1974, c. 131, s. 10.

Investiga-
tion by
Director

11.—(1) Where, upon a statement made under oath, the Director believes on reasonable and probable grounds that any person is contravening or is about to contravene any of the provisions of this Act or regulations or an order or assurance of voluntary compliance made or given pursuant to this Act, the Director may by order appoint one or more persons to make an investigation as to whether such a contravention of the Act, regulation, order or assurance of voluntary compliance has occurred and the person appointed shall report the result of his investigation to the Director.

Powers of
investigator

(2) For purposes relevant to the subject-matter of an investigation under this section, the person appointed to make the investigation may inquire into and examine the affairs of the person in respect of whom the investigation is being made and may,

(a) upon production of his appointment, enter at any reasonable time the business premises of such person and examine books, papers, documents and things relevant to the subject-matter of the investigation; and

(b) inquire into the transactions, business affairs, management and practices that are relevant to the subject-matter of the investigation,

and for the purposes of the inquiry, the person making the investigation has the powers of a commission under Part II of the *Public Inquiries Act*, which Part applies to such inquiry as if it were an inquiry under that Act. R.S.O. 1980, c. 411

(3) No person shall obstruct a person appointed to make an investigation under this section or withhold from him or conceal or destroy any books, papers, documents or things relevant to the subject-matter of the investigation. Obstruction of investigator

(4) Where a justice of the peace is satisfied, upon an *ex parte* application by the person making an investigation under this section, that the investigation has been ordered and that such person has been appointed to make it and that there is reasonable ground for believing there are in any building, dwelling, receptacle or place any books, papers, documents or things relating to the person whose affairs are being investigated and to the subject-matter of the investigation, the justice of the peace may, whether or not an inspection has been made or attempted under clause (2) (a), issue an order authorizing the person making the investigation, together with such police officer or officers as he calls upon to assist him, to enter and search, if necessary by force, such building, dwelling, receptacle or place for such books, papers, documents or things and to examine them, but every such entry and search shall be made between sunrise and sunset unless the justice of the peace, by the order, authorizes the person making the investigation to make the search at night. Search warrant

(5) Any person making an investigation under this section may, upon giving a receipt therefor, remove any books, papers, documents or things examined under clause (2) (a) or subsection (4) relating to the person whose affairs are being investigated and to the subject-matter of the investigation for the purpose of making copies of such books, papers or documents, but such copying shall be carried out with reasonable dispatch and the books, papers or documents in question shall be promptly thereafter returned to the person whose affairs are being investigated. Removal of books, etc.

(6) Any copy made as provided in subsection (5) and certified to be a true copy by the person making the investigation is admissible in evidence in any action, proceeding or prosecution as *prima facie* proof of the original book, paper or document and its contents. Admissibility of copies

(7) The Minister or Director may appoint any expert to examine books, papers, documents or things examined under clause (2) (a) or under subsection (4). Appointment of experts

Report

(8) Where, upon the report of an investigation made under subsection (1), it appears to the Director that a person may have contravened any of the provisions of this Act or the regulations, the Director shall send a full and complete report of the investigation, including the report made to him, any transcript of evidence and any material in the possession of the Director relating thereto, to the Minister. 1974, c. 131, s. 11.

Order to
refrain
from dealing
with assets

12.—(1) Where,

- (a) an investigation of any person has been ordered under section 11; or
- (b) an order has been issued against a person under section 6 or 7; or
- (c) an assurance of voluntary compliance has been given under section 9,

the Director, if he believes it advisable for the protection of consumers of the person referred to in clause (a), (b) or (c) may, in writing or by telegram, direct any person having on deposit or under control or for safekeeping any assets or trust funds of the person referred to in clause (a), (b) or (c) to hold such assets or trust funds or direct the person referred to in clause (a), (b) or (c) to refrain from withdrawing any such assets or trust funds from any person having any of them on deposit or under control or for safekeeping or to hold such assets or any trust funds of clients, customers or others in his possession or control in trust for any interim receiver, custodian, trustee, receiver or liquidator appointed under the *Bankruptcy Act* (Canada), the *Judicature Act*, the *Corporations Act*, the *Business Corporations Act* or the *Winding-up Act* (Canada), or until the Director revokes or the Tribunal cancels such direction or consents to the release of any particular assets or trust funds from the direction but, in the case of a bank, loan or trust company, the direction only applies to the office, branches or agencies thereof named in the direction.

R.S.C. 1970,
cc. B-3, W-10

R.S.O. 1980,
cc. 223, 95, 54

Bond in
lieu

(2) Subsection (1) does not apply where the person referred to in clause (1) (a), (b) or (c) files with the Director,

- (a) a personal bond accompanied by collateral security;
- (b) a bond of a guarantee company approved under the *Guarantee Companies Securities Act*; or
- (c) a bond of a guarantor, other than a guarantee company, accompanied by collateral security,

R.S.O. 1980,
c. 192

in such form, terms and amount as the Director determines.

(3) Any person in receipt of a direction given under subsection (1), if in doubt as to the application of the direction to any assets or trust funds, or in case of a claim being made thereto by a person not named in the direction, may apply to a judge or local judge of the Supreme Court who may direct the disposition of such assets or trust funds and may make such order as to costs as seems just.

(4) Any person referred to in clause (1) (a), (b) or (c) in respect of whom a direction has been given by the Director under subsection (1) may, at any time, apply to the court for cancellation in whole or in part of the direction and the court shall dispose of the application after a hearing and may, if it finds that such a direction is not required in whole or in part for the protection of consumers of the applicant or that the interests of other persons are unduly prejudiced thereby, cancel the direction in whole or in part, and the applicant, the Director and such other persons as the court may specify are parties to the proceedings before the court. 1974, c. 131, s. 12.

13. Any notice or document required by this Act to be served or given may be served or given personally or by registered mail addressed to the person to whom notice is to be given at his last known address and, where notice is served or given by mail, the service shall be deemed to have been made on the fifth day after the day of mailing unless the person to whom notice is given establishes that he, acting in good faith, through absence, accident, illness or other cause beyond his control, did not receive the notice, or did not receive the notice until a later date. 1974, c. 131, s. 13.

14.—(1) Every person employed in the administration of this Act, including any person making an inquiry, inspection or an investigation under section 10 or 11 shall preserve secrecy in respect of all matters that come to his knowledge in the course of his duties, employment, inquiry, inspection or investigation and shall not communicate any such matters to any other person except,

- (a) as may be required in connection with the administration of this Act and the regulations or any proceedings under this Act or the regulations;
- (b) to his counsel or to the court in any proceeding under this Act or the regulations;
- (c) to inform the consumer involved of an unfair practice and of any information relevant to the consumer's rights under this Act; or

- (d) with the consent of the person to whom the information relates.

Testimony
in civil suit

(2) No person to whom subsection (1) applies shall be required to give testimony in any civil suit or proceeding with regard to information obtained by him in the course of his duties, employment, inquiry, inspection or investigation except in a proceeding under this Act or the regulations. 1974, c. 131, s. 14.

Certificate
of Director
as evidence

15. A copy of an order or assurance of voluntary compliance purporting to be certified by the Director is, without proof of the office or signature of the Director, receivable in evidence as *prima facie* proof of the facts stated therein for all purposes in any action, proceeding or prosecution. 1974, c. 131, s. 15.

Regulations

16.—(1) The Lieutenant Governor in Council may make regulations,

- (a) requiring persons engaging in a business that includes consumer representations or any class of them to make such returns and furnish such information to the Director as is prescribed;
- (b) requiring any information required or permitted to be furnished to the Director or contained in any form or return to be verified by affidavit;
- (c) subject to subsection (2), adding to the consumer representations that are deemed to be unfair practices under clause 2 (a);
- (d) exempting any class of person or type of consumer from this Act or the regulations or any provision thereof;
- (e) requiring the payment of fees in respect of the inspection of public records maintained under section 5;
- (f) prescribing forms for the purposes of this Act and providing for their use;
- (g) prescribing the form, terms and collateral security for bonds given with assurances of voluntary compliance and providing for the forfeiture of bonds and the disposition of the proceeds.

Regulation
re additional
unfair
practices

(2) A regulation under clause (1) (c) may be made when the Assembly is recessed or not in session and expires with the prorogation of the resumed session or of the next ensuing session, as the case may be. 1974, c. 131, s. 16.

17.—(1) Every person who, knowingly,

Offences

- (a) furnishes false information in an investigation under this Act;
- (b) contravenes a regulation;
- (c) fails to comply with any order or assurance of voluntary compliance made or entered into under this Act; or
- (d) obstructs a person making an investigation under section 10 or 11,

is guilty of an offence and on conviction is liable to a fine of not more than \$2,000 or to imprisonment for a term of not more than one year, or to both.

(2) Every person who engages in an unfair practice other than an unfair practice prescribed by a regulation made under clause 16 (1) (c), knowing it to be unfair practice is guilty of an offence and on conviction is liable to a fine of not more than \$2,000 or to imprisonment for a term of not more than one year, or to both. ^{Idem}

(3) Where a corporation is convicted of an offence under subsection (1) or (2), the maximum penalty that may be imposed upon the corporation is \$25,000 and not as provided therein. ^{Corporation}

(4) Where a corporation has been convicted of an offence under subsection (1) or (2), ^{Directors and officers}

- (a) each director of the corporation; and
- (b) each officer, servant or agent of the corporation who was in whole or in part responsible for the conduct of that part of the business of the corporation that gave rise to the offence,

is a party to the offence unless he satisfies the court that he did not authorize, permit or acquiesce in the offence.

(5) No proceeding under this section shall be commenced more than two years after the time when the subject-matter of the proceeding arose. ^{Limitation period}

(6) A representation or advertisement printed, published, distributed, broadcast or telecast by a person on behalf of another in the ordinary course of business under circumstances that are not a contravention of subsection (2) shall ^{Exemption re advertisements}

not be deemed to be an unfair practice for the purposes of section 3, but this subsection shall not be applied to affect the application of section 6 to the representation. 1974, c. 131, s. 17.

CHAPTER 56

Business Records Protection Act

1. No person shall, pursuant to or under or in a manner that would be consistent with compliance with any requirement, order, direction or subpoena of any legislative, administrative or judicial authority in any jurisdiction outside Ontario, take or cause to be taken, send or cause to be sent or remove or cause to be removed from a point in Ontario to a point outside Ontario, any account, balance sheet, profit and loss statement or inventory or any resume or digest thereof or any other record, statement, report, or material in any way relating to any business carried on in Ontario, unless such taking, sending or removal,

Business records not to be taken from Ontario

- (a) is consistent with and forms part of a regular practice of furnishing to a head office or parent company or organization outside Ontario material relating to a branch or subsidiary company or organization carrying on business in Ontario;
- (b) is done by or on behalf of a company or person as defined in the *Securities Act*, carrying on business in Ontario and as to a jurisdiction outside Ontario in which the securities of the company or person have been qualified for sale with the consent of the company or person; R.S.O. 1980, c. 466
- (c) is done by or on behalf of a company or person as defined in the *Securities Act*, carrying on business in Ontario as a dealer or salesman as defined in the *Securities Act*, and as to a jurisdiction outside Ontario in which the company or person has been registered or is otherwise qualified to carry on business as a dealer or salesman, as the case may be; or
- (d) is provided for by or under any law of Ontario or of the Parliament of Canada. R.S.O. 1970, c. 54, s. 1.

2.—(1) Where the Attorney General or any person having an interest in a business as mentioned in section 1 has reason to believe that a requirement, order, direction, or subpoena as mentioned in section 1 has been or is likely to be made, issued or given in relation to such business, he may apply to a judge or local judge of the Supreme Court

Undertaking and recognition

for an order requiring any person, whether or not such person is named in the requirement, order, direction, or subpoena, to furnish an undertaking and recognizance for the purpose of ensuring that such person will not contravene section 1 and the judge may make such order as he considers proper. R.S.O. 1970, c. 54, s. 2 (1); 1972, c. 1, s. 9 (7).

Contempt
of court

(2) Every person who, having received notice of an application under this section, contravenes this Act shall be deemed to be in contempt of court and is liable to one year's imprisonment.

Idem

(3) Every person required to furnish an undertaking or recognizance who contravenes this Act is in contempt of court and in addition to any penalty provided by the recognizance is liable to one year's imprisonment. R.S.O. 1970, c. 54, s. 2 (2, 3).

Procedure

3. The practice and procedure of the Supreme Court applies to every application made under this Act. R.S.O. 1970, c. 54, s. 3.

CHAPTER 57

Cancer Act

PART I

THE ONTARIO CANCER TREATMENT AND RESEARCH
FOUNDATION

1. The corporation known as The Ontario Cancer Treatment and Research Foundation, referred to in this Act as the Foundation, is continued. Foundation continued R.S.O. 1970, c. 55, s. 1.

2.—(1) The Foundation shall consist of not fewer than Members seven members who shall be appointed by the Lieutenant Governor in Council and who shall hold office during pleasure.

(2) The Lieutenant Governor in Council may fill any Vacancies vacancies that occur from time to time in the membership of the Foundation.

(3) Five of the members of the Foundation constitute a Quorum quorum for the transaction of business. R.S.O. 1970, c. 55, s. 2.

3.—(1) The Lieutenant Governor in Council may appoint Chairman, vice-chairman one of the members to be chairman of the Foundation and another of the members to be vice-chairman of the Foundation.

(2) The chairman shall preside at all meetings of the Presiding officer Foundation at which he is present and in his absence the vice-chairman shall preside and in the absence of both the chairman and the vice-chairman the members present shall elect one of themselves to preside. R.S.O. 1970, c. 55, s. 3.

4. Subject to the approval of the Lieutenant Governor in Advisory medical board Council, the Foundation may appoint an advisory medical board consisting of such persons representative of the medical faculties of the University of Toronto, Queen's University, The University of Western Ontario and the University of Ottawa, and of radiotherapists, surgeons, pathologists, internists, physicists and the medical profession generally as the Foundation considers appropriate. R.S.O. 1970, c. 55, s. 4, *revised*.

Object

5. The object of the Foundation is to establish and conduct a program of research, diagnosis and treatment in cancer, including,

- (a) the establishment, maintenance and operation of research, diagnostic and treatment centres in general hospitals or elsewhere;
- (b) the transportation of patients and escorts to its treatment centres or to the hospital of the Institute for diagnosis, treatment or investigation;
- (c) the establishment, maintenance and operation of hostels in connection with its treatment centres or the hospital of the Institute;
- (d) the laboratory and clinical investigation of cancer problems;
- (e) the co-ordination of facilities for treatment;
- (f) the adequate reporting of cases and the recording and compilation of data;
- (g) the education of the public in the importance of early recognition and treatment;
- (h) the providing of facilities for undergraduate and post-graduate study;
- (i) the training of technical personnel; and
- (j) the providing and awarding of research fellowships. R.S.O. 1970, c. 55, s. 5.

Agreements

6. Subject to the approval of the Lieutenant Governor in Council, the Foundation may make agreements with universities, medical associations, hospitals and persons for the purpose of carrying out the object of the Foundation. R.S.O. 1970, c. 55, s. 6.

Information
to be
confidential

7.—(1) Any information or report respecting a case of cancer furnished to the Foundation by any person shall be kept confidential and shall not be used or disclosed by the Foundation to any person for any purpose other than for compiling statistics or carrying out medical or epidemiological research.

Liability

(2) No action or other proceeding for damages lies or shall be instituted against any legally qualified medical practi-

tioner or any licensed dental surgeon or any hospital in respect of the furnishing to the Foundation of any information or report with respect to a case of cancer examined, diagnosed or treated, by such medical practitioner or dental surgeon or at such hospital. 1972, c. 34, s. 1.

8. The Foundation may employ a director and officers,^{Staff} clerks and servants and may engage the services of experts and other persons and may pay such director, officers, clerks, servants, experts or other persons such remuneration as it considers proper out of its funds. R.S.O. 1970, c. 55, s. 7.

9. Subject to the approval of the Lieutenant Governor in^{By-laws} Council, the Foundation may make such by-laws, rules or regulations as are considered expedient for the administration of its affairs. R.S.O. 1970, c. 55, s. 8.

10. The funds of the Foundation consist of moneys received^{Funds} by it from any source including moneys appropriated for its use by the Parliament of Canada or the Legislature of Ontario, and the Foundation may disburse, expend or otherwise deal with any of its funds in such manner not contrary to law as it considers proper. R.S.O. 1970, c. 55, s. 9.

11. The members of the Foundation and its medical ad-^{Expenses}visory board shall be paid such amounts for travelling and other expenses as the Foundation, subject to the approval of the Lieutenant Governor in Council, may determine from time to time. R.S.O. 1970, c. 55, s. 10.

12. The accounts of the Foundation shall be audited^{Audit} annually by the Provincial Auditor or by such qualified auditor as the Lieutenant Governor in Council designates, in which event the costs of the audit shall be paid out of the funds of the Foundation. R.S.O. 1970, c. 55, s. 11.

13.—(1) The Foundation shall after the close of each^{Annual report} fiscal year make a report upon its affairs during the preceding year to the Minister of Health and every such report shall contain a financial statement, certified by the auditor, showing all moneys received and disbursed by the Foundation during the preceding year. R.S.O. 1970, c. 55, s. 12 (1).

(2) The Minister of Health shall submit the report to the^{Idem} Lieutenant Governor in Council and shall then lay the report before the Assembly if it is in session or, if not, at the next ensuing session. R.S.O. 1970, c. 55, s. 12 (2); 1972, c. 1, s. 78 (1).

Power to
expropriate
land and
erect
buildings

14.—(1) Subject to the approval of the Lieutenant Governor in Council, the Foundation may acquire by purchase or lease, or may enter upon, take and use without the consent of the owner thereof, any land and buildings that are considered suitable for the purposes of the Foundation and may erect buildings, acquire and install machinery and equipment and purchase all such instruments, materials and appliances and other matters and things that are considered necessary.

Application
of
R.S.O. 1980,
c. 148

(2) Whenever the Foundation exercises the power to enter upon, take or use lands without the consent of the owner thereof, the *Expropriations Act* applies. R.S.O. 1970, c. 55, s. 13.

Right to
acquire
patents,
etc.

15. Subject to the approval of the Lieutenant Governor in Council, the Foundation may apply for, or acquire by purchase, assignment or otherwise, rights in any patent relating to any remedy for the prevention or cure of cancer and may sell and dispose thereof or of any interest therein, and grant or assign any rights that have been acquired by the Foundation thereunder. R.S.O. 1970, c. 55, s. 14.

Property
not liable
to assess-
ment

16. The real and personal property, business and income of the Foundation is not subject to taxation for municipal or provincial purposes. R.S.O. 1970, c. 55, s. 15.

PART II

THE ONTARIO CANCER INSTITUTE

Institute
continued

17. The corporation known as The Ontario Cancer Institute, referred to in this Act as the Institute, is continued. R.S.O. 1970, c. 55, s. 16.

Members

18.—(1) The Institute shall consist of fifteen persons appointed by the Lieutenant Governor in Council, namely,

- (a) five persons representing the Foundation, one of whom shall be the chairman of the Foundation;
- (b) three persons representing The Governing Council of the University of Toronto;
- (c) one person representing the Board of Trustees of the Toronto General Hospital;
- (d) one person representing the Board of Trustees of The Hospital for Sick Children;
- (e) one person representing the governing body of St. Michael's Hospital;

- (f) one person representing the Board of Governors of The Toronto Western Hospital;
- (g) one person representing the Board of Governors of the Women's College Hospital;
- (h) one person representing the Board of Governors of the Toronto Wellesley Hospital;
- (i) one person representing the Board of Governors of New Mount Sinai Hospital,

who shall hold office during pleasure.

(2) The Lieutenant Governor in Council may fill any ^{Vacancies} vacancies that occur from time to time in the membership of the Institute in accordance with the method of representation prescribed in this section.

(3) Five of the members of the Institute constitute a ^{Quorum} quorum for the transaction of business. R.S.O. 1970, c. 55, s. 17, *revised*.

19. The Lieutenant Governor in Council may appoint one ^{Chairman} of the representatives of the Foundation as chairman of the Institute. R.S.O. 1970, c. 55, s. 18.

20. Subject to the approval of the Lieutenant Governor in ^{Advisory medical board} Council, the Institute may appoint an advisory medical board consisting of legally qualified medical practitioners, scientists and other persons. R.S.O. 1970, c. 55, s. 19.

21. The object of the Institute is to maintain, manage ^{Object} and operate a provincial hospital with facilities for cancer research, diagnosis and treatment. R.S.O. 1970, c. 55, s. 20.

22. Subject to the approval of the Lieutenant Governor ^{Agreements} in Council, the Institute may make agreements with the Foundation or with any university, medical association, hospital or person for the purpose of carrying out the object of the Institute. R.S.O. 1970, c. 55, s. 21.

23. The Institute may employ a director and such staff as ^{Staff} may from time to time be required for the purposes of the hospital and may pay such director and staff such remuneration as it considers proper out of its funds. R.S.O. 1970, c. 55, s. 22.

24. Subject to the approval of the Lieutenant Governor ^{By-laws} in Council, the Institute may make such by-laws, rules or

regulations as are considered expedient for the administration of its affairs. R.S.O. 1970, c. 55, s. 23.

Funds

25.—(1) The funds of the Institute consist of moneys received by it from any source, including the Foundation, and the Institute may disburse, expend or otherwise deal with any of its funds in such manner not contrary to law as it considers proper.

Estimates

(2) The Institute shall annually prepare and submit to the Foundation the estimates of the moneys required for its purposes during the ensuing fiscal year. R.S.O. 1970, c. 55, s. 24.

Expenses

26. The members of the Institute and its medical advisory board shall be paid such amounts for travelling and other expenses as the Institute, subject to the approval of the Lieutenant Governor in Council, determines from time to time. R.S.O. 1970, c. 55, s. 25.

Audit

27. The accounts of the Institute shall be audited annually by the Provincial Auditor or by such qualified auditor as the Lieutenant Governor in Council designates, in which event the costs of the audit shall be paid out of the funds of the Institute. R.S.O. 1970, c. 55, s. 26.

**Annual
report**

28.—(1) The Institute shall after the close of each fiscal year make a report upon its affairs during the preceding year to the Minister of Health and every such report shall contain a financial statement, certified by the auditor, showing all moneys received and disbursed by the Institute during the preceding year. R.S.O. 1970, c. 55, s. 27 (1).

Idem

(2) The Minister of Health shall submit the report to the Lieutenant Governor in Council and shall then lay the report before the Assembly if it is in session or, if not, at the next ensuing session. R.S.O. 1970, c. 55, s. 27 (2); 1972, c. 1, s. 78 (2).

**Property
not liable
to assess-
ment**

29. The real and personal property, business and income of the Institute are not subject to taxation for municipal or provincial purposes. R.S.O. 1970, c. 55, s. 28.

CHAPTER 58

Cancer Remedies Act

1. In this Act,

Interpre-
tation

(a) "Commission" means The Commission for the Investigation of Cancer Remedies;

(b) "Minister" means the Minister of Health. R.S.O. 1970, c. 56, s. 1.

2.—(1) The Lieutenant Governor in Council may appoint one or more persons as a commission known as The Commission for the Investigation of Cancer Remedies.

Commis-
sion.
appoint-
ment

(2) The Commission is a body corporate.

Status

(3) The member or members of the Commission shall hold office during the pleasure of the Lieutenant Governor in Council.

Term of
office

(4) Where there is more than one member of the Commission,

Chairman:
quorum

(a) the Lieutenant Governor in Council may appoint one of the members of the Commission to be chairman; and

(b) a majority of the members of the Commission constitutes a quorum and a majority vote of the members present at any meeting of the Commission determines any question. R.S.O. 1970, c. 56, s. 2.

3.—(1) The objects of the Commission are to investigate, approve, disapprove, encourage or report upon any substance or method of treatment that is believed to be, or likely to be, or is advertised, held out to be or used as a remedy for cancer, and the Commission may take such measures as it considers necessary to accomplish its objects.

Objects

(2) The funds of the Commission consist of the moneys received by it from any source, including the moneys appropriated for its use by the Parliament of Canada, the Legislature of Ontario, or the King George V Silver Jubilee Cancer Fund, and the Commission may disburse, expend or otherwise deal with any of its funds as it considers proper.

Funds

Commission
may enter
into agree-
ments

(3) Subject to the approval of the Lieutenant Governor in Council, the Commission may enter into agreements with any university, medical association, hospital or other association, corporation or person for the purpose of carrying out its objects.

Officers,
clerks and
servants

(4) The Commission may employ officers, clerks and servants and may engage the services of experts and other persons and may pay any such officer, clerk, servant, expert or other person such remuneration as it considers proper out of its funds.

Remunera-
tion of
members of
Commission

(5) The members of the Commission shall be paid such remuneration out of its funds as the Lieutenant Governor in Council may determine. R.S.O. 1970, c. 56, s. 3.

Commission
to furnish
financial
statement

4. The Minister may require the Commission to furnish him with a financial statement showing all moneys received and disbursed by it, and may require the Provincial Auditor or any other qualified auditor to conduct an audit of its funds and the cost of such audit shall be paid out of its funds. R.S.O. 1970, c. 56, s. 4.

Submission
of samples
of treatment

5.—(1) The Commission may require any person who advertises, offers for sale, holds out, distributes, sells or administers either free of charge or for gain, hire or hope of reward, any substance or method of treatment as a remedy for cancer to submit samples of such substance or a description of such treatment and samples of any substance used with such treatment to the Commission together with the formula of such substance and such other information pertaining to such substance or method of treatment as the Commission may determine.

Information
not to be
divulged

(2) The Commission shall not divulge any information relating to the composition or formula of any substance received by it, except to a person authorized by it to investigate the substance.

Oath of
secrecy

(3) The Commission may administer an oath in such form and manner as it may determine, binding any such person not to divulge information furnished to him. R.S.O. 1970, c. 56, s. 5.

Investigation
of
treatment

6. Where a substance or method of treatment is submitted to the Commission under section 5, the Commission shall cause the substance or method of treatment to be investigated and, upon the conclusion of the investigation, shall make a determination or finding as to merit or value as a remedy for cancer of the substance or method of treatment, but the

Commission may at any time before concluding its investigation make such determination or finding of a temporary nature as it considers proper, and every determination or finding of the Commission shall be recorded in its minutes. R.S.O. 1970, c. 56, s. 6.

7. The Commission shall make a report of any determination or finding relating to a substance or method of treatment, ^{Reports}

(a) to the Minister; and

(b) to the person who submitted the substance or method to the Commission for investigation,

and the Minister may publish the report in such manner as he considers proper. R.S.O. 1970, c. 56, s. 7.

8. No action in libel or slander or otherwise lies or shall be instituted against the Minister, the Commission, any member of the Commission or any officer, clerk or servant employed by the Commission or any expert or other person engaged by the Commission, whether in the public or private capacity of the Minister, member, officer, clerk, servant, expert, or other person, in respect of any act or omission in connection with the administration or carrying out of this Act. ^{Action against Commission} R.S.O. 1970, c. 56, s. 8.

9. Every person who contravenes any of the provisions of this Act or who fails or neglects to obey any order, direction or requirement of the Commission is guilty of an offence and on conviction is liable for a first offence to a fine of not less than \$100 and not more than \$500 and for any subsequent offence to a fine of not less than \$500 and not more than \$2,500. ^{Offence} R.S.O. 1970, c. 56, s. 9.

CHAPTER 59

Cemeteries Act

1. In this Act,

Interpre-
tation

- (a) "Cemeteries Advisory Board" means the advisory board established under the regulations made under a predecessor of this Act;
- (b) "cemetery" means land that is set apart or used as a place for the interment of the dead or in which human bodies have been buried;
- (c) "columbarium" means a structure designed for the purpose of storing the ashes of human remains that have been cremated;
- (d) "crematorium" means a building fitted with the proper appliances for the purposes of the cremation of human remains, and includes everything incidental or ancillary thereto;
- (e) "inspector" means an inspector designated under this Act;
- (f) "local board" means the local board of health of a municipality in which it is proposed to establish or in which there is a cemetery;
- (g) "mausoleum" means a building or other structure used as a place for the interment of the dead in sealed crypts or compartments;
- (h) "Minister" means the Minister of Consumer and Commercial Relations;
- (i) "Ministry" means the Ministry of Consumer and Commercial Relations;
- (j) "owner" means a person who owns, controls or manages a cemetery, mausoleum or columbarium;
- (k) "perpetual care" means the preservation, improvement, embellishment and maintenance in perpetuity

in a proper manner of lots and plots in a cemetery or of compartments in a mausoleum or columbarium;

(l) "perpetual care funds" means the funds and property received by an owner for the purpose of providing perpetual care generally of a cemetery, mausoleum or columbarium or of any particular part thereof;

(m) "pre-need assurance fund" means the moneys set aside by the owner out of the amount received from the sale of cemetery supplies and cemetery services as defined by the regulations;

(n) "regulations" means the regulations made by the Lieutenant Governor in Council under this Act. R.S.O. 1970, c. 57, s. 1; 1972, c. 1, s. 31.

Inspectors

2. The Minister may designate one or more officers of the Ministry to be inspectors for the purposes of this Act and the regulations with such powers and duties as the regulations prescribe. R.S.O. 1970, c. 57, s. 2; 1972, c. 1, s. 1.

Cemeteries
Advisory
Board

3. The Lieutenant Governor in Council may make regulations respecting the Cemeteries Advisory Board and prescribing its powers and duties. R.S.O. 1970, c. 57, s. 3.

Conflict with
provisions in
other Acts

4. Where the provisions of a general or special Act conflict with the provisions of this Act or the regulations, the provisions of this Act and the regulations prevail. R.S.O. 1970, c. 57, s. 4.

Establish-
ment of
cemeteries,
etc.

5. No cemetery shall be established or enlarged, and no crematorium, columbarium or mausoleum shall be established, enlarged, altered or used, until the approval of the Ministry has been obtained in the manner hereinafter provided. R.S.O. 1970, c. 57, s. 5; 1972, c. 1, s. 1.

Application
and material

6. An application for such approval shall be made in writing to the council of the municipality, and the applicant shall submit therewith a detailed plan and description in duplicate of the land proposed to be acquired or used for cemetery, crematorium, columbarium or mausoleum purposes, together with such other information as the regulations require. R.S.O. 1970, c. 57, s. 6.

Transmission
to Ministry

7. The application and one of the duplicates of the plan and description of the land and all other material filed with the application shall be transmitted to the

Ministry together with a statement of the opinion of the council of the municipality thereon. R.S.O. 1970, c. 57, s. 7; 1972, c. 1, s. 1.

8.—(1) No application for the establishment or enlarge-^{Deposit}ment of a cemetery, columbarium or mausoleum to be^{to assure} operated for gain or profit shall be approved unless the owner has set aside as a deposit to assure the maintenance of the cemetery, columbarium or mausoleum, as the case may be, the sum prescribed by the regulations and in the manner so prescribed.

(2) The sum set aside as a deposit under subsection^{Transfer} (1) may be returned to the owner upon such terms and^{to owner} conditions as the regulations prescribe. R.S.O. 1970, c. 57, s. 8.

9.—(1) The approval of the Ministry shall be by order^{Approval} in writing signed by the Minister or Deputy Minister and shall contain a sufficient description of the cemetery, crematorium, columbarium or mausoleum proposed to be established or of the land that is to be annexed to it.

(2) The order may be registered in the proper land registry^{Registration} office, and upon its registration the cemetery, crematorium, columbarium or mausoleum may be established or enlarged as the order directs.

(3) The approval of the Ministry may be revoked by^{Revocation} an order in writing signed by the Minister or Deputy^{of approval} Minister, and thereafter the land mentioned in the order shall not be used for the interment of the dead until a further approval has been issued. R.S.O. 1970, c. 57, s. 9; 1972, c. 1, s. 1.

10. No cemetery that is to be operated for gain or^{Approval} profit shall be used for the interment of the dead until^{to inter} approval of the Ministry therefor has been obtained. R.S.O. 1970, c. 57, s. 10; 1972, c. 1, s. 1.

11. Every person who establishes, enlarges or uses a^{Offence} cemetery, or who establishes, enlarges, alters or uses a crematorium, columbarium or mausoleum, without the approval of the Ministry, is guilty of an offence and on conviction is liable to a fine of not less than \$100 and not more than \$500. R.S.O. 1970, c. 57, s. 11; 1972, c. 1, s. 1.

12. The expenses of the Ministry shall be paid by^{Expenses} the applicant. R.S.O. 1970, c. 57, s. 12; 1972, c. 1, s. 1.

Licensing
of salesmen

13.—(1) No person shall offer for sale or sell lots in a cemetery unless,

- (a) he is licensed so to do under the regulations; and
- (b) the provisions of the sale contracts have been approved by the Minister.

Exemption

(2) This section does not apply in respect of the sale of lots in a cemetery or class of cemetery exempt therefrom under the regulations. R.S.O. 1970, c. 57, s. 13.

Application
of designated
provisions to
crematoria,
etc.

14. The provisions of this Act designated by the regulations apply with necessary modifications to crematoria, columbaria and mausolea. R.S.O. 1970, c. 57, s. 14.

Regulations

15.—(1) The Lieutenant Governor in Council may make regulations,

- (a) respecting the burial, disinterment, removal and disposal of the bodies or other remains of deceased persons;
- (b) respecting the plans, surveys, arrangement, condition, care, sale and conveyancing of lots, plots and other cemetery grounds and property;
- (c) respecting the erection, arrangement and removal of tombs, vaults, monuments, gravestones, markers, copings, fences, hedges, shrubs, plants and trees in cemeteries;
- (d) fixing the amount and type of bond or insurance that shall be furnished or carried by persons selling cemetery lots;
- (e) requiring owners of cemeteries to permit the planting, installation and erection of cemetery supplies by owners of lots and such other persons and upon such conditions as the regulations prescribe;
- (f) defining cemetery services and cemetery supplies for the purposes of the regulations;
- (g) governing and regulating the charges for the sale and care of lots and for cemetery services and supplies;
- (h) regulating or restricting or prohibiting the sale or offering for sale of cemetery lots and prescribing

the method, manner and conditions under which cemetery lots may be sold or offered for sale;

- (i) prescribing the sum that shall be set aside as a deposit to assure the maintenance of a cemetery, columbarium or mausoleum to be operated for gain or profit, the manner in which such sum shall be set aside and the terms and conditions upon which such sum may be returned;
- (j) prescribing the portion of the consideration of each sale that must be paid into the pre-need assurance fund, the portion that may be withdrawn therefrom and the terms and conditions upon which such withdrawal may be made;
- (k) respecting the collection, amounts to be collected and investment of funds for perpetual care and maintenance of cemeteries;
- (l) requiring the filing or registration of plans of cemeteries and prescribing the contents and details of the plans and requiring that burials be made in accordance with the plan;
- (m) requiring that the by-laws, rules or regulations made by the owners of cemeteries be approved by the Minister;
- (n) requiring information with regard to cemeteries and the care and management thereof to be furnished to the Minister;
- (o) requiring cemetery owners to supply financial and other information prescribed by the regulations to owners of cemetery lots and such other persons as the regulations prescribe;
- (p) prescribing the amount of money that shall be set aside for perpetual care by the owner, and regulating the method and manner of the computation of the amount of money so to be set aside, and prescribing the matters or things in and about the cemetery, columbarium or mausoleum upon which the owner may expend the income from perpetual care funds;
- (q) requiring and prescribing records in connection with the establishment, maintenance and operation of cemeteries to be kept by owners, and prescribing

the times at which the records shall be submitted to the Minister and the information that shall accompany the records;

- (r) prescribing the powers and duties of inspectors;
- (s) requiring the licensing of persons who offer for sale or sell lots in a cemetery and prescribing the terms and conditions upon which a licence may be issued, the fees payable therefor, the form and term thereof, and the terms and conditions upon which any such licence may be renewed, suspended or revoked;
- (t) exempting any cemetery, mausoleum or columbarium, or any class thereof from the application of section 13, 27, 28 or 29, and any cemetery that is not operated for gain from any other provisions of this Act, and prescribing the conditions under which such cemetery, mausoleum or columbarium or any class thereof shall be exempt therefrom, and any such regulation may have a retroactive effect;
- (u) classifying cemeteries, mausolea and columbaria; and
- (v) designating the provisions of this Act that shall apply with necessary modifications to crematoria, columbaria and mausolea,

and any such regulation may be general in its application or may be made applicable specially to any particular locality or cemetery.

Offence

(2) Every person who contravenes any of the provisions of the regulations is guilty of an offence and on conviction is liable to a fine of not more than \$100 for a first offence and not more than \$500 for any subsequent offence. R.S.O. 1970, c. 57, s. 15.

Powers and duties of local boards

16.—(1) It is the duty of the local board and it has power,

- (a) to enter into and upon and to visit and inspect any cemetery within the limits of the municipality and to examine and inquire into the condition of the cemetery;
- (b) to see that the provisions of this Act and the regulations are observed and to enforce their obser-

vance by prosecution for the penalties imposed by this Act;

- (c) to call for and collect such statistical and other information as the Ministry requires with regard to cemeteries and the care and management thereof;
- (d) to report to the Ministry from time to time upon the enforcement and administration of this Act; and
- (e) to see that every cemetery is properly fenced, kept clear of weeds and otherwise cared for in a proper manner and in accordance with this Act and the regulations.

(2) Any of the powers conferred upon a local board by subsection (1) may be delegated to any person by the local board. ^{Delegation of power}

(3) Where the Lieutenant Governor in Council is of opinion that a cemetery is being supervised and managed in a proper manner by a municipal council, board of park management or cemetery board, he may exempt it from any of the provisions of this section. ^{Exemption of certain cemeteries} R.S.O. 1970, c. 57, s. 16; 1972, c. 1, s. 1.

17. The treasurer of the municipality shall forthwith upon demand pay the amount of any account for services performed under the direction of the local board, or for any expenditure incurred by or on behalf of the local board in carrying out the provisions of this Act or the regulations, after the board has by resolution approved the account and after a copy of the resolution certified by the chairman and secretary has been filed in the office of the treasurer. ^{Payment for services} R.S.O. 1970, c. 57, s. 17.

18. In territory without municipal organization, any of the powers conferred upon a local board by this Act may be exercised by the Ministry, any medical officer of health or any public health inspector. ^{Unorganized territory} R.S.O. 1970, c. 57, s. 18; 1972, c. 1, s. 1.

19. The Lieutenant Governor in Council may appoint any person to investigate and report upon the conditions of any cemetery and the conduct of its affairs or those of any corporation or trust or individual being the owner or in control of a cemetery and to examine and audit the books of account of any cemetery, and any person so appointed has the powers of a commission under Part II of ^{Investigation and report}

R.S.O. 1980,
c. 411

the *Public Inquiries Act*, which Part applies to such investigation as if it were an inquiry under that Act. R.S.O. 1970, c. 57, s. 19; 1971, c. 49, s. 18.

Lots
indivisible

20. All lots or plots in a cemetery when numbered and conveyed as burial sites or lots are indivisible, but may afterwards be held and owned in undivided shares. R.S.O. 1970, c. 57, s. 20.

Registration
of convey-
ance not
necessary

21. When a lot in a cemetery or a compartment in a mausoleum or columbarium has been sold for a burial site or for a deposit therein of human remains, it is not necessary to register the conveyance nor shall such lot or compartment be affected by any judgment, execution, mortgage or encumbrance. R.S.O. 1970, c. 57, s. 21.

Repurchasing
lots

22. The owner of a cemetery may repurchase any lot previously sold or conveyed or any part of such lot in which no interment has been made. R.S.O. 1970, c. 57, s. 22.

Owner may
accept
devise,
gifts, etc.

23.—(1) The owner may take and hold by grant, assignment, devise, bequest or otherwise any money or securities and apply the same in preserving, improving and embellishing the cemetery, upon the condition and in consideration of assuming and undertaking the duty and obligation of preserving and maintaining in a proper manner in perpetuity any particular lot, tomb, monument or enclosure in the cemetery or in any other cemetery or burying ground in the same municipality or in any other municipality in the same county or district, and any person may make such grant, assignment, devise or bequest upon such condition and for such consideration.

Taking lots
by grant,
assignment,
or devise

(2) The owner may also take and hold by grant, assignment or devise from the owner thereof any lot in the cemetery for the purpose of maintaining it in perpetuity or otherwise in the manner and subject to the provisions of the instrument of grant, assignment or devise.

May agree
to keep lots,
etc., in good
condition

(3) The owner may agree to preserve and maintain in a proper manner in perpetuity the particular lot, tomb, monument or enclosure in any cemetery designated in such grant, assignment, devise, bequest or agreement.

Payment
over of
bequest

(4) Personal representatives or trustees may pay over and transfer money or securities in their hands that they are authorized or directed to apply for or toward the purposes mentioned in this section.

(5) For the purpose of securing the due performance of such agreement, the owner shall invest the money received under the agreement in the same manner as trustees are authorized to invest trust money and out of the income of such investment perform his obligations under the agreement.

Investment
of funds

(6) Every executor and trustee of an estate, the testator or settlor of which has provided money or other property for the care and upkeep of a plot or plots or other part of a cemetery, and the registrar of the surrogate court from which probate issues, shall notify the owner of the cemetery of the amount of money or other property so provided for the care and upkeep or other benefits conferred upon the cemetery immediately upon the issue of probate or when the executor or trustee assumes the burden of the administration of the estate.

Notice to
owner of
bequest or
devise for
perpetual
care

(7) The owner may call upon an executor or trustee of the estate of a testator or settlor who has bequeathed or set aside or provided any money or other property for the purpose of the upkeep or care of any lot or plot or part of a cemetery of such owner for the payment or delivery over to the owner of such money or property to be invested as hereinbefore provided, the income thereof to be used by the owner as provided in the will of the testator or instrument of the settlor, and on default the owner may take out an appointment from the surrogate judge of the county in which the cemetery is situate directing the executor or trustee to appear before him at such time and place as he appoints, and upon the hearing, pursuant to such appointment, the judge has authority to direct payment or delivery over to the owner of such money or property or make such other disposition thereof in the premises as to him seems proper in order to carry out fully the intention of the testator or settlor as set forth in his will or other instrument, and the costs of and incidental to the application are in the discretion of the judge.

Payment or
delivery to
owner of
property
devised for
perpetual
care

(8) Where the amount of the money or the value of the property directed to be delivered over to the owner is \$200 or less, the order may be filed in the small claims court of the division in which the executor, trustee or settlor resides, and, in all other cases, in the county court of the county in which the executor, trustee or settlor resides, and, when so filed, the order may be enforced in like manner as a judgment of the court in which it is filed.

Where
amount \$200
or less

Charges,
what may
and what
may not be
made by
owner

(9) The owner shall not make any charge in connection with the erection of monuments, tombstones or vaults, except a reasonable charge for opening graves and constructing the foundations, or erecting monuments, tombstones or vaults where the erecting is done by the owner.

Payment
of money
on deposit
in chartered
banks

(10) Where money has been deposited with a chartered bank in Ontario to provide a fund to furnish revenue by way of interest or otherwise for the perpetual upkeep of a lot, the bank may pay the money to the owner for the purposes for which it was deposited, to be dealt with according to this Act, and the owner may give an effectual release to the bank upon receiving the money. R.S.O. 1970, c. 57, s. 23.

Perpetual
care funds
to be set
aside

24.—(1) Where an owner sells or transfers a lot in a cemetery or a compartment in a mausoleum or columbarium, he shall set aside in trust for perpetual care, out of the amount received on the sale or transfer, such amount as the regulations prescribe.

Deficiency
in perpetual
care funds

(2) Where the amount received on the sale or transfer is not sufficient to provide the amount prescribed by the regulations or if nothing is received on the sale or transfer, the owner shall forthwith make up the deficiency so as to provide the amount so prescribed.

Disposition
of perpetual
care funds

(3) Where the owner is entitled to retain perpetual care funds, he shall invest the amount so set aside or, where he is not entitled to retain perpetual care funds, he shall pay over the amount so set aside as provided in this Act.

Application
of perpetual
care income

(4) The owner shall, out of the income of such investment, preserve and maintain in a proper manner in perpetuity all lots in the cemetery, or compartments or crypts in the mausoleum or columbarium, as the case may be, and the owner may, out of such income, preserve and maintain tombs, monuments and enclosures and such other matters or things in or about the cemetery, mausoleum or columbarium as are prescribed by the regulations. R.S.O. 1970, c. 57, s. 24.

Records
to be kept
by owners

25. Every owner of a cemetery shall keep such records in connection with the establishment, maintenance, and operation of the cemetery as the regulations require and shall submit the records to the Minister at such times and with such information as the regulations prescribe. R.S.O. 1970, c. 57, s. 25.

26. Such officers of the Ministry as the Minister may appoint to inspect the books and records kept by owners in respect of the establishment, maintenance and operation of cemeteries, shall for the purpose of inspection have access to all such books and records at all reasonable times. R.S.O. 1970, c. 57, s. 26; 1972, c. 1, s. 1.

Books and records to be open to officers of Ministry

27.—(1) Every owner shall pay over all perpetual care funds that have heretofore and that hereafter come into his possession to the Public Trustee or to a trust company registered under the *Loan and Trust Corporations Act* within one month from the day on which the funds come into his possession or within such further period of time as the regulations provide.

Perpetual care funds to trust company, etc.
R.S.O. 1980, c. 249

(2) The Public Trustee or trust company shall invest the perpetual care funds as prescribed by section 28 and pay the income therefrom to the owner for the purposes of perpetual care.

Investment

(3) Where the owner has paid over perpetual care funds under subsection (1), all perpetual care funds thereafter received by the owner shall be paid over to the Public Trustee or to the trust company, as the case may be, to be dealt with in like manner,

Further funds to be paid over

(4) Where the owner has paid over the perpetual care funds to a trust company in accordance with subsection (1) or (3), the owner, with the approval of the Minister, may direct the trust company to transfer any such funds to another trust company referred to in subsection (1) or to the Public Trustee.

Transfer of funds

(5) Where the owner has paid over the perpetual care funds to the Public Trustee in accordance with subsection (1) or (3), the owner, with the approval of the Minister, may direct the Public Trustee to transfer any such funds to a trust company referred to in subsection (1).

Idem

(6) Perpetual care funds that have been paid over to the Public Trustee or a trust company under this section shall not be returned to the owner but shall form a trust in the possession of the Public Trustee or the trust company.

Held in trust

(7) This section does not apply to the perpetual care funds of a cemetery, mausoleum or columbarium or any class thereof that is exempt from this section under the regulations. R.S.O. 1970, c. 57, s. 27.

Exemption

Investment
of funds

R.S.O. 1980,
c. 512

Deposit of
funds in
bank
pending
investment

R.S.O. 1980,
c. 249

Exception

Interpre-
tation,
ss. 29-37

Passing
of accounts

Exception

Idem

28.—(1) Every owner entitled to hold perpetual care funds, the Public Trustee or a trust company shall invest perpetual care funds in the same manner as a trustee is authorized to invest trust funds under the *Trustee Act*.

(2) Except as otherwise provided in this Act or the regulations, the owner, Public Trustee or a trust company, pending the investment of perpetual care funds or pending the payment over of such funds to the Public Trustee or a trust company in the case of an owner not entitled to hold perpetual care funds, may deposit them during such time as is reasonable in the circumstances in any chartered bank of Canada, or in the Province of Ontario Savings Office, or in any trust company or loan corporation that is registered under the *Loan and Trust Corporations Act*.

(3) This section does not apply to the perpetual care funds of a cemetery, mausoleum or columbarium or any class thereof that is exempt from this section under the regulations. R.S.O. 1970, c. 57, s. 28.

29.—(1) For the purposes of this section and sections 30 to 37, "owner" includes a trust company to which perpetual care funds have been paid.

(2) Every owner shall forthwith submit to be passed, examined and audited, by the judge of the surrogate court for the county or district in which his cemetery, mausoleum or columbarium is located, accounts of his dealings with perpetual care funds that have come into his hands since the 1st day of January, 1952, but this subsection does not apply to any owner whose accounts with respect to such funds have been so passed since the 1st day of January, 1955.

(3) Notwithstanding subsection (2), where the owner of a cemetery is a corporation that owns five or more cemeteries located in more than one county, the owner may submit his accounts to be passed, examined and audited by the judge of the surrogate court of the Judicial District of York.

(4) On a passing of accounts, the judge may require the owner,

(a) to submit additional accounts or information with respect to perpetual care funds; and

(b) to make a full disclosure and accounting of all perpetual care funds that have come into the possession of the owner at any time.

(5) Where a cemetery, mausoleum or columbarium is ^{Idem} hereafter established, the owner shall, within five years after its establishment, submit to be passed, examined and audited by the judge, accounts of his dealings with perpetual care funds.

(6) This section does not apply to perpetual care funds ^{Exemption} of a cemetery, mausoleum or columbarium or any class thereof that is exempt from this Act under the regulations. R.S.O. 1970, c. 57, s. 29.

30. After the first passing of accounts under section 29 ^{Periodical passing of accounts} or a predecessor thereof, the owner shall submit his accounts with respect to perpetual care funds to be passed, examined and audited at intervals not exceeding five years from the date of the order made on the last previous passing of accounts. R.S.O. 1970, c. 57, s. 30.

31. The judge of the surrogate court for the county or ^{Passing of accounts} district in which a cemetery, mausoleum or columbarium is located may direct a passing of accounts of perpetual care funds at any time. R.S.O. 1970, c. 57, s. 31.

32. Where for any reason the judge considers it expedient, ^{Extension of time for passing accounts} he may from time to time, after notice has been given to the Public Trustee of an application to extend the time for passing accounts, extend the time prescribed by section 29 or 30 for a period not exceeding two years. R.S.O. 1970, c. 57, s. 32.

33.—(1) Except as provided in subsection (2), the provisions ^{Provisions of R.S.O. 1980, cc. 491, 512 to apply} of the *Surrogate Courts Act* and the rules made thereunder and of the *Trustee Act* with respect to the passing of accounts of an executor, administrator or trustee apply with necessary modifications to the passing of accounts under this Act, but the owner shall not be allowed any compensation for his care, pains and trouble and his time expended in and about the perpetual care funds, and any agreement made by the owner as defined in clause 1 (j) with respect to the payment to a trust company or to the Public Trustee for services in connection with funds entrusted to the trust company or to the Public Trustee may be reviewed and passed upon by the judge on a passing of accounts.

(2) Notice of the passing of accounts shall be served only ^{Notice} upon the Public Trustee unless the judge otherwise directs. R.S.O. 1970, c. 57, s. 33.

34. If, upon the passing of accounts, the judge finds ^{Breach of trust} that the owner has been guilty of a breach of trust or has in his hands perpetual care funds that are not im-

mediately required for perpetual care purposes, or has failed to set aside the proper amount for such purposes, he may direct that the funds or a part thereof be paid to the Public Trustee or to a trust company, or make such order as he considers necessary to compel compliance with this Act or the trust in question. R.S.O. 1970, c. 57, s. 34.

Information
required
by Public
Trustee

35. An owner shall from time to time furnish the Public Trustee with such information with respect to perpetual care funds as the Public Trustee requires. R.S.O. 1970, c. 57, s. 35.

Interest
of Public
Trustee

36. The Public Trustee shall be deemed to be a person having an interest in perpetual care funds. R.S.O. 1970, c. 57, s. 36.

Law
applicable to
property for
charitable
purposes

37. In addition to the powers, rights and obligations created by this Act, the provisions of the general law either statutory or otherwise apply to an owner or trust company with respect to any perpetual care funds in his hands to the same extent as they are applicable to a trustee having funds or property in his hands for charitable purposes. R.S.O. 1970, c. 57, s. 37.

Pre-need
assurance
funds

38.—(1) Every owner who sells cemetery supplies or cemetery services to be furnished or supplied upon the death of a person who is alive at the time the sale is made shall establish and maintain a pre-need assurance fund.

Operation
of fund

(2) Every owner referred to in subsection (1) shall pay into his pre-need assurance fund such portion of the consideration of each sale as the regulations prescribe, and he may withdraw from the fund such portion as the regulations prescribe upon such terms and conditions as the regulations prescribe.

Application
of ss. 27-37

(3) Sections 27 to 37, except subsection 27 (6), subsection 29 (2) and subsection 33 (2), apply with necessary modifications to pre-need assurance funds.

Minister
deemed to
have interest

(4) The Minister or a person designated by him shall be deemed to be a person having an interest in pre-need assurance funds.

Passing of
accounts

(5) Every owner shall forthwith submit to be examined, audited and passed by the judge of the surrogate court for the county or district in which his cemetery, columbarium or mausoleum is located the accounts of his dealings with the pre-need assurance moneys that have come into his hands since the 1st day of November, 1957, but this sub-

section does not apply to any owner whose accounts with respect to such funds have been passed since the 1st day of January, 1962.

(6) Notice of the passing of accounts shall be served upon the Minister. R.S.O. 1970, c. 57, s. 38. Idem

39. Where an action has been commenced by debenture holders whose debentures are charges against the assets of a cemetery and perpetual care funds paid to the owner of the cemetery have not been set aside as required by this Act and the regulations and a receiver has been appointed by order of the court, the Lieutenant Governor in Council may, notwithstanding this Act and the regulations, fix the amount to be set aside for perpetual care. R.S.O. 1970, c. 57, s. 39. Power to adjust amount of perpetual care funds

40. The owner of a cemetery that is not operated for gain or profit may maintain any lot, tomb, monument or enclosure that is not being properly maintained by or on behalf of the owner thereof, and the reasonable charges for so doing are a debt due by the lot owner to the owner of the cemetery. R.S.O. 1970, c. 57, s. 40. Right to charge owner with cost of maintenance

41.—(1) If additional land is required for the enlargement of a cemetery and the council of the municipality in which the land is situate by by-law declares that in the opinion of the council the owner should, for that purpose, have power to expropriate any adjacent land described in the by-law, and if the Ministry certifies that in its opinion the proposed enlargement is for the public advantage and convenience and ought to be permitted, the owner, upon registering the by-law and certificate in the proper land registry office, in respect of the land described in the by-law, possesses the powers conferred upon the council of a local municipality by the *Municipal Act*. Power to acquire additional lands, etc.

R.S.O. 1980,
c. 302

(2) Where the owner, not being a municipal corporation, desires to proceed under this section, proceedings for expropriation may be initiated by notice. R.S.O. 1970, c. 57, s. 41; 1972, c. 1, s. 1. How proceedings to be instituted

42. Subject to this Act and to the regulations, the owner may make regulations for laying out and selling lots and managing the cemetery, for regulating burials therein, the removal of bodies therefrom, the erection or removal of tombs, monuments, gravestones, vaults, copings, fences, hedges or other permanent improvements therein, the planting, placing and removal of trees, shrubs and plants in the grounds, and otherwise generally respecting the use of the grounds, and for the execution of conveyances of lots or plots in the cemetery. R.S.O. 1970, c. 57, s. 42. Power to make regulations

Power to
borrow

43. The owner may borrow money for the purpose of laying out, making and improving roads in the cemetery, and for that purpose may mortgage all his estate, right and interest in the cemetery, but nothing in this section authorizes the mortgagee or any one claiming under him to use or deal with the cemetery in a manner inconsistent with the continued use of it as a cemetery or inconsistent with any provision of this Act for the preservation and protection of it for cemetery purposes. R.S.O. 1970, c. 57, s. 43.

Duties of
owner

44.—(1) The owner shall,

- (a) keep and maintain fences about the cemetery sufficient to prevent dogs, cattle and other animals from straying therein;
- (b) keep the cemetery and the buildings and fences thereof in good order and repair; and
- (c) see that all burials in the cemetery are conducted in a decent and orderly manner and that quiet and good order are at all times maintained therein.

Weeds

(2) Where there is no person resident in the municipality in which a cemetery is situate in charge of it, the cemetery shall be deemed non-resident land within the meaning of the *Weed Control Act*.

R.S.O. 1980,
c. 530

Offence

(3) Every owner who contravenes any of the provisions of subsection (1) is guilty of an offence and on conviction is liable to a fine of not more than \$10 and \$5 for every day during which the contravention continues. R.S.O. 1970, c. 57, s. 44.

Sewers and
drains

45. Every owner shall construct all necessary sewers and drains in and about the cemetery for draining it and keeping it dry, and may whenever necessary connect any such sewer or drain with an existing sewer with the consent in writing of the municipal corporation or other body or the person owning or controlling the highway, lane or other public communication, or the land of which any part is to be opened up for that purpose, doing as little damage as possible and restoring the same to as good condition as before the opening was made. R.S.O. 1970, c. 57, s. 45.

No offensive
matter to be
allowed into
rivers, etc.

46.—(1) The owner shall not cause or suffer any offensive matter from the cemetery to be brought to or flow into any river, spring, well, stream, canal, reservoir, aqueduct, pond or watering place.

(2) Every owner who contravenes subsection (1) is guilty of an offence and on conviction is liable to a fine of not more than \$50, and in addition is liable for any damage caused thereby to any person having a right to use such water. R.S.O. 1970, c. 57, s. 46.

47.—(1) The owner shall not cause or suffer any dead body to be interred in a vault or otherwise under or within fifteen feet of the outer wall of a church, chapel or other building in the cemetery. Interments not to be within 15 feet of church walls, etc.

(2) Every owner who contravenes subsection (1) is guilty of an offence and on conviction is liable to a fine of not more than \$50. R.S.O. 1970, c. 57, s. 47.

48.—(1) The owner shall not permit any burial therein until he has been registered as the owner of the cemetery with the Registrar General, through the division registrar of the municipality in which the cemetery is situate. Owner's name to be recorded

(2) Every owner who contravenes subsection (1) is guilty of an offence and on conviction is liable to a fine of not more than \$50. R.S.O. 1970, c. 57, s. 48.

49. Where the owner neglects to keep a cemetery in good order or to erect or maintain fences as required by this Act, the local board may give notice to him to do so, specifying in the notice what he is required to do, and if he does not within one month after the notice comply with such requirements, the local board may cause such requirements to be complied with at his expense, and may levy the cost thereof by distress and sale of the owner's goods and chattels, or may maintain an action for the recovery thereof. R.S.O. 1970, c. 57, s. 49. Default of owner

50. Sections 5, 6, 7, 9, 11, 13, 15, 16, 17, 19, 42, 45 and 46 apply with necessary modifications to mausolea in the same manner as they apply to cemeteries. R.S.O. 1970, c. 57, s. 50. Application of certain sections to mausolea

51. The Lieutenant Governor in Council may make regulations providing that the provisions of this Act respecting perpetual care funds and pre-need assurance funds and the regulations with respect thereto apply to persons who do not own a cemetery but who sell or offer for sale cemetery lots or cemetery supplies and services. R.S.O. 1970, c. 57, s. 51. Extension of perpetual care and pre-care provisions

52.—(1) Where no interment has been made in a plot for more than twenty years and the plot owner has not maintained and kept it in a proper state of repair for more Provision for sale of part of lot where no interment made for 20 years

than five years or has made default for more than five years in payment of the maintenance charges referred to in section 40, a judge of the county or district court of the county or district, on the application of the owner of the cemetery and after notice has been given as provided by subsection (2) and on being satisfied that the facts are as above set out, may authorize the owner of the cemetery to sell and convey that part of the plot in which no interment has been made, and the proceeds of any such sale, except as otherwise provided in subsection (3), shall be invested and the income derived therefrom shall be applied to the perpetual care and maintenance of that part of the plot in which an interment has been made.

Notice of
application

(2) Where to the knowledge of the owner of the cemetery the plot owner resides in the county or district, notice of the application shall be delivered to him personally or sent to his address by registered mail at least four days before the time fixed for hearing the application, and, where he resides in some other county or district in Ontario and his place of residence is known by the owner of the cemetery, the notice shall be sent to the address of his residence by registered mail at least ten days before the time fixed for the hearing, and, where the place of his residence is not in Ontario or is unknown, the judge may direct what notice, if any, shall be given.

Where
fund for
perpetual
care
maintained
and lots sold

(3) Where the owner of a cemetery that is not operated for gain or profit maintains a fund for the perpetual care of the cemetery and plots or parts of plots are sold under this section, the owner shall apply the proceeds received from the sale, or so much as is available, in the following order and priority:

Firstly.—In reduction or satisfaction of all arrears due to the owner for the maintenance charges referred to in subsection (1).

Secondly.—In providing for the perpetual care of that part of the lot in which an interment has been made.

Thirdly.—Any balance remaining to be carried to the credit of the perpetual care fund maintained by the cemetery. R.S.O. 1970, c. 57, s. 52.

Graves to be
provided for
strangers and
indigents
free of
charge

53. Where the owner of a cemetery is an incorporated company or a municipal corporation, it shall provide graves for strangers and for the indigent free of charge, but an incorporated company is not bound to do so in the case of

an indigent except upon the certificate of a member of the council of the municipality or of a minister or clergyman that the relatives of the deceased are poor and cannot afford to purchase a lot in the cemetery. R.S.O. 1970, c. 57, s. 53.

54.—(1) The body of a person who has died of smallpox, scarlet fever, measles, diphtheria, croup, bubonic plague, cholera, epidemic cerebrospinal meningitis, or epidemic anterior poliomyelitis shall not be disinterred, except for the purpose of transportation or reinterment and in conformity with the regulations. Disinterment in cases of contagious diseases

(2) No such dead body shall be transported by railway, steam or other vessel, or other public conveyance unless prepared in the manner provided by the regulations and enclosed in a hermetically sealed coffin that shall not be subsequently opened. R.S.O. 1970, c. 57, s. 54. Transport of dead body

55.—(1) No dead body shall at any time be disinterred or removed from the grave, place of burial or vault, other than a receiving vault, except under and subject to the regulations and under the supervision and direction of the medical officer of health. Disinterment of dead body

(2) The certificate of the medical officer of health that this Act and the regulations have been complied with shall be affixed to the coffin or other receptacle containing the dead body before its removal from the cemetery. Certificate of medical officer of health

(3) Every person who disinters or removes a dead body from a grave, place of burial or vault, except as hereinbefore provided, and every person who conveys or transports any such body in contravention of this Act is guilty of an offence and on conviction is liable to a fine of \$100. R.S.O. 1970, c. 57, s. 55. Offence

56. Every human body interred in a cemetery that is not placed or buried in a private vault so constructed as to prevent the escape of noxious or unhealthful gases therefrom shall be buried so that the outside cover or shell of the coffin or other receptacle is at least three feet beneath the natural surface of the ground, and the coffin or other receptacle shall be immediately covered with at least three feet of earth. R.S.O. 1970, c. 57, s. 56. Depth of burials

57.—(1) Notwithstanding anything in this Act, where it is deemed necessary to disinter a dead body for the purpose of a judicial proceeding, the court in which the proceeding is pending may direct its disinterment under and subject to such conditions as to reinterment as are considered proper. R.S.O. 1970, c. 57, s. 57 (1). Disinterment, court order

Attorney
General's
order

(2) Where the Attorney General considers it expedient for the purpose of an inquiry as to the cause of death or for the purpose of a criminal investigation or proceeding that a body should be disinterred, he may exercise the powers mentioned in subsection (1). R.S.O. 1970, c. 57, s. 57 (2); 1972, c. 1, s. 9 (7).

Coroner's
order

(3) A coroner who has issued his warrant for the holding of an inquest upon a dead body may direct it to be disinterred. R.S.O. 1970, c. 57, s. 57 (3).

Closing
cemeteries

58. Where the Ministry reports in writing that a cemetery is so situated that, owing to the want of proper facilities for drainage or from any other cause, it has become or is likely to become dangerous to the health of the inhabitants of the locality or that for any other reason it is expedient that it should be closed, the Lieutenant Governor in Council may declare it to be closed and thereupon no further interments shall take place therein. R.S.O. 1970, c. 57, s. 58; 1972, c. 1, s. 1.

Removal of
bodies and
reinterment
in another
cemetery

59.—(1) Where a cemetery has been closed by the Lieutenant Governor in Council and the owner of the cemetery establishes to the satisfaction of the Lieutenant Governor in Council that it is expedient that the bodies therein should be removed therefrom, the Lieutenant Governor in Council may direct such removal in the manner and according to the procedure provided by this section.

Notice of
application

(2) Before the application for an order under subsection (1) is granted, the owner shall give notice of the application,

- (a) once a week for four successive weeks in *The Ontario Gazette*;
- (b) once a week for four successive weeks in a newspaper having general circulation in the locality in which the cemetery is situate; and
- (c) by registered letter addressed to every plot owner in the cemetery whose address is known or can be ascertained by the owner.

Notice of
order to be
published

(3) After the making of the order, the owner shall forthwith give notice thereof by publication once a week for at least two successive weeks in *The Ontario Gazette* and in a newspaper having general circulation in the locality in which the cemetery is situate, or, if there is no such newspaper, then in a newspaper in the county or district town, that he will, at the expiration of thirty days from the publication of the last of such notices, disinter and

remove the bodies and reinter them in the place described in the notice, which shall be in some cemetery in the same or in an adjacent municipality.

(4) At the expiration of the time fixed by such notice, any bodies not removed by the relatives or friends of the deceased may be removed by the owner at his own expense, and when removed shall be reinterred by him in the cemetery mentioned in the notice.

Time of removal and duties of owner

(5) Sections 54, 55 and 56 apply to such disinterment, removal and reinterment.

Application of ss. 54, 55, 56

(6) The owner shall remove all monuments or headstones or other stones marking the graves in which bodies so removed are buried, and shall re-erect or replace them in the cemetery to which the bodies are removed.

Removal and re-erection of monuments, etc.

(7) If the owner satisfies a judge of the county or district court of the county or district that he has removed from the cemetery and reinterred as provided in this Act all the remains which with the exercise of reasonable diligence he has been able to find buried in the cemetery, the judge may certify that this section has been complied with and the certificate may be registered in the proper land registry office.

Certificate of judge

(8) The certificate when so registered is conclusive evidence that the owner has removed from the land therein described all the remains there buried, and thereafter the land shall be deemed not to be a cemetery within the meaning of this Act, but may be sold, leased or otherwise disposed of and dealt with by the owner as if it had not been a cemetery. R.S.O. 1970, c. 57, s. 59.

Effect of certificate

60. Where a cemetery has been closed by the Lieutenant Governor in Council and the owner does not proceed as provided by section 59, the Lieutenant Governor in Council may authorize any person to exercise the powers of the owner in respect of a removal directed by the Lieutenant Governor in Council and every expense incurred by such person in so doing is a debt due and owing from the owner to the Crown in right of Ontario. R.S.O. 1970, c. 57, s. 60.

Removal by person other than owner

61.—(1) No person shall,

Prohibitions

- (a) wilfully destroy, mutilate, deface, injure or remove any tomb, monument, gravestone or other structure placed in a cemetery, or any fence, railing

or other work for the protection or ornament of a cemetery, or of any such tomb, monument, grave-stone or other structure or of any lot in a cemetery;

- (b) wilfully destroy, cut, break or injure any tree, shrub or plant in a cemetery, or wilfully injure, destroy or deface any building or structure or any road, walk or other works in a cemetery;
- (c) play at any game or sport in a cemetery;
- (d) discharge firearms in a cemetery, except at a military funeral;
- (e) wilfully and unlawfully disturb persons assembled for the purpose of burying a body in a cemetery; or
- (f) commit a nuisance in a cemetery.

Offence

(2) Every person who contravenes any of the provisions of subsection (1) is guilty of an offence and on conviction is liable to a fine of not less than \$4 and not more than \$40.

Animals

(3) No person shall bring any dog, goat or cattle within the limits of a cemetery, and every person so doing is guilty of an offence and on conviction is liable to a fine of not more than \$20.

Liability to action

(4) Every person who contravenes subsection (1) or subsection (3) is also liable in an action in the name of the owner of the cemetery or of a burial plot upon which the damage is done or other unlawful act committed to pay all damages occasioned by his unlawful act and, when recovered, the damages shall be applied under the direction of the owner of the cemetery for the reparation and reconstruction of the property destroyed. R.S.O. 1970, c. 57, s. 61.

Where municipality to maintain cemetery

62. Where the owner of a cemetery cannot be found or is unknown or is unable to maintain it, the council of the local municipality in which the cemetery is situate shall maintain it and the corporation of the local municipality shall for the purposes of this Act be deemed to be the owner of the cemetery. R.S.O. 1970, c. 57, s. 62.

Power of municipality to expropriate cemetery or land to establish cemetery

63. The council of a local municipality may, with the approval of the Lieutenant Governor in Council, pass a by-law,

- (a) for expropriating land in the municipality for the establishment of a cemetery; or
- (b) for expropriating a cemetery situate in the municipality or in an adjacent township or in unorganized territory,

and the *Expropriations Act* applies thereto. R.S.O. 1970, c. 57, s. 63, ^{R.S.O. 1980, c. 148}

64.—(1) Where a local municipality has expropriated a cemetery, the municipality may, with the approval of the Minister, ^{Power of municipality to convey cemetery}

- (a) convey the cemetery to trustees elected in the manner provided by section 75 or to a company incorporated for the purpose of operating a cemetery upon such trusts as the council of the municipality considers proper; and
- (b) assign to such trustees or company any money or securities held by the municipality for the purpose of providing for perpetual care of graves, lots, gravestones or fences in the cemetery.

(2) Where a municipality has conveyed a cemetery to trustees under this section, section 75 applies with necessary modifications. ^{Application of s. 75} R.S.O. 1970, c. 57, s. 64.

65.—(1) Subject to sections 5 to 61 and to the regulations, ^{By-laws} the council of every local municipality and the trustees of every police village may pass by-laws for,

- (a) making an annual or other grant of money to the owner of a cemetery situate in the municipality or the police village, or in any adjacent municipality or police village;
- (b) regulating funerals and the interment of the dead;
- (c) acquiring land in the municipality or in the police village or in an adjacent township or in unorganized territory for a cemetery, or for the enlargement of an existing cemetery of which the municipality or police village is the owner;
- (d) selling or leasing parts of such land for the purpose of interment in family vaults or otherwise, and fixing the terms on which the land shall be conveyed or leased and held;

- (e) the maintenance, management, regulation and control of any cemetery that is owned by the corporation or the trustees whether situate in or outside the municipality or police village.

Removal,
etc., of
monuments

(2) The authority given to make by-laws under clause (1) (e) includes authority to provide for the removal or rearrangement of any monument or gravestone or other structure in any cemetery that the municipality or the police village, as the case may be, has been charged with maintaining under section 62.

By-law
to be
approved by
Ministry

(3) No such by-law comes into force or takes effect until it has been approved in writing by the Ministry. R.S.O. 1970, c. 57, s. 65; 1972, c. 1, s. 1.

By-laws
prohibiting
interment

66. The council of every urban municipality and the trustees of every police village may pass by-laws for prohibiting the interment of the dead in the municipality or police village. R.S.O. 1970, c. 57, s. 66.

Power to
sell to
municipal
corporation

67. The owner of an existing cemetery or of any land held for cemetery purposes may sell or transfer it to any municipal corporation or to the trustees of any police village, and, if it has not been used for burial purposes, the corporation may sell it and acquire other land in lieu of it. R.S.O. 1970, c. 57, s. 67.

Council of
city or town
may transfer
cemetery
to board of
park man-
agement
R.S.O. 1980,
c. 417

68. The council of a city or town for which there is a board of park management established under the *Public Parks Act* may by by-law transfer the control and management of a cemetery vested in the corporation of the municipality to such board, and thereafter the cemetery is vested in the board of park management and the board has the control and management of the cemetery and is responsible for its maintenance in the same manner and to the same extent as a municipal corporation owning and maintaining a cemetery under this Act. R.S.O. 1970, c. 57, s. 68.

Cemetery
board in
city and
town

69. The council of a city or town owning or controlling a cemetery situated either in or outside the limits of the city or town may by by-law transfer the control and management of the cemetery to a board consisting of not fewer than three nor more than seven persons who shall hold office during the pleasure of the council and may by the by-law define the duties and powers of such board. R.S.O. 1970, c. 57, s. 69.

Cemetery
board in
township

70.—(1) The council of a township may by by-law appoint a board consisting of not fewer than three nor

more than seven persons who shall hold office during the pleasure of the council, and may by by-law provide that the board shall have and may exercise in the municipality all the powers and perform all the duties of a municipal council with respect to cemeteries in the township, including the powers and duties mentioned in section 62.

(2) Such a board is a corporation with the name of ^{Board to be a corporation} "The Cemetery Board of the Township of (*insert name of township*)" and the ownership and control of the cemeteries owned or controlled by the corporation of the township are vested in the board.

(3) The council of a village has the like powers as are conferred on townships by subsections (1) and (2) not only with respect to cemeteries in the village but also as to cemeteries outside the village owned and controlled by the corporation of the village. ^{Cemetery board in village} R.S.O. 1970, c. 57, s. 70.

71.—(1) The council of every county shall appoint a ^{War memorial committee} committee to be known as "The (*insert name of county*) War Memorial Committee" to take charge of monuments, tablets and other memorials established or erected in the county in commemoration of the nursing sisters, officers and men of Her Majesty's forces who served, were wounded or killed or died during any war, except only such monuments, tablets and other memorials as are being cared for by municipalities, churches or other organizations.

(2) The committee shall be composed of five persons of ^{Idem} whom two shall be members of the county council and the members of the committee shall serve without remuneration. R.S.O. 1970, c. 57, s. 71.

72.—(1) Where ten or more inhabitants of a township or ^{Where lands for cemetery may be vested in trustees} part of a township desire to take a conveyance of land for a cemetery not for the exclusive use of any particular religious body, they may appoint trustees to whom, and their successors appointed in the manner provided by the conveyance, the land may be conveyed.

(2) Such trustees and their successors in perpetual suc- ^{Trustees to hold in perpetual succession} cession, by the name expressed in the conveyance, may take, hold and possess the land in trust for the uses and purposes mentioned therein and may maintain and defend actions for the protection thereof and of their property therein.

(3) Not more than ten acres shall be held in trust under ^{Limitation} any such conveyance. R.S.O. 1970; c. 57, s. 72.

Cemetery trustees may be empowered to take over other cemeteries

73. Where trustees have been appointed to take a conveyance of land for cemetery purposes in a township or village and have acquired land in the township or village for cemetery purposes and there is in the township or village other land that has been used as a cemetery and no provision has been made for the appointment of trustees for such last-mentioned land and there is no person upon whom the duty of maintaining and caring for the land rests and the owner of such land is absent or unknown, the Ontario Municipal Board, upon the application of the trustees and after the giving of such public notice as the Board considers sufficient, may make an order vesting such last-mentioned land in the trustees and, upon the registration of the order in the proper land registry office, the land vests in the trustees and they have and shall perform the same powers and duties with respect thereto as with respect to other lands conveyed to them for cemetery purposes. R.S.O. 1970, c. 57, s. 73.

Closing road allowance

74. Where a road allowance that has not been opened for travel passes through lands used for cemetery purposes or separates or lies between lands used for cemetery purposes and other lands vested in the trustees under section 73, or conveyed to them, the Ontario Municipal Board, upon the application of the trustees and after notice to the council of the municipality and upon being satisfied that it is in the public interest that the road allowance should be closed and that the part thereof that passes through or is adjacent to the cemetery lands should be vested in the trustees, may make an order closing the road allowance and vesting so much thereof as passes through or adjoins the cemetery lands in the trustees, and, upon the registration of the order in the proper land registry office, the lands described in the order vest in the trustees for cemetery purposes. R.S.O. 1970, c. 57, s. 74.

Election of trustees where no other provision made

75.—(1) Where land has been set apart or sold for cemetery purposes and used as a cemetery and no provision has been made for the appointment of trustees of the cemetery, or where there is no person upon whom the duty of taking care of and maintaining a cemetery rests, the owners of plots therein may elect trustees in the manner provided in this section.

Meeting

(2) Three or more of such owners may call a meeting for the purpose of electing trustees by notice in Form 1 to be published once a week for two successive weeks in a newspaper published in the local municipality in which the cemetery is situate, or, if no newspaper is published in

the local municipality, then in the newspaper published nearest to the local municipality.

(3) The date of the meeting shall not be less than two weeks from the date of the last publication of the notice. Date of meeting

(4) At the time and place named in the notice, the plot owners present shall elect from among themselves some person to act as chairman and a person to act as secretary for the meeting. Chairman and secretary

(5) After the election of the chairman and secretary, the plot owners present shall elect from among themselves three persons to be trustees of the cemetery. Three trustees to be elected

(6) After the election of the trustees, the chairman and secretary shall certify as to the election in Form 2. Certificate of election

(7) The certificate shall be made in triplicate and one of them, with an affidavit of execution in the form prescribed by the *Registry Act*, shall be registered in the proper land registry office, one of them shall be filed with the clerk of the local municipality in which the cemetery is situate and the other of them shall be delivered to the trustees. Registration and filing certificate R.S.O. 1980, c. 445

(8) Upon the registration of the certificate, the cemetery is vested in the trustees so appointed and their successors, subject to any deed or other instrument setting it apart for cemetery purposes or conveying it or any plot therein for cemetery purposes and subject to the rights of any person who may have theretofore purchased plots in the cemetery and subject to this Act. Effect of registration

(9) The trustees elected and their successors shall be deemed to be the owners of the cemetery. Trustees deemed owners

(10) Where a vacancy occurs in the office of trustee, whether originally elected or elected to fill a vacancy, his successor shall be elected and his election shall be certified and the certificate shall be registered in the manner provided in subsection (7). Vacancies among trustees

(11) This section applies with necessary modifications to a mausoleum that has been established and used and where there is no person upon whom the duty of taking care of and maintaining the mausoleum rests. R.S.O. 1970, c. 57, s. 75. Mausoleum

Adjoining
cemeteries

76.—(1) Where adjoining cemeteries are owned by separate boards of trustees or companies, they may appoint trustees to whom and to their successors, appointed in the manner provided by the conveyance, all or any of the land vested in the appointing bodies may be conveyed, and the land may be conveyed accordingly and the trustees appointed by such conveyance and their successors in perpetual succession, by the name expressed in the conveyance, may take, hold and possess the land thereby or thereafter conveyed to them as a site for a cemetery and for the enlargement of an existing cemetery, and maintain and defend actions for the protection thereof and of their property therein.

Cemeteries
may be
vested in
company

(2) Instead of appointing trustees as provided by subsection (1), the cemeteries may be conveyed to and vested in the company or in one of the companies upon such trusts, if any, as the appointing bodies consider proper. R.S.O. 1970, c. 57, s. 76.

Establish-
ment of
crematoria

77. The powers of an owner of a cemetery shall be deemed to extend to and include the provision and maintenance of crematoria and columbaria and the disposal of the bodies of deceased persons by cremation, and the provision of such fixtures, appliances and facilities as are deemed necessary in order that the cremation may be carried on in accordance with accepted scientific principles. R.S.O. 1970, c. 57, s. 77.

Regulation
of cremation
and disposal
of ashes

78. The owner may, subject to approval of the Lieutenant Governor in Council, frame by-laws, rules and regulations for the reception and cremation of the bodies of deceased persons, for the deposit of ashes remaining therefrom in a suitable columbarium or for otherwise disposing of them, and for the fees and rates to be charged. R.S.O. 1970, c. 57, s. 78.

Medical
certificate

79. No body shall be cremated unless a certificate and permit similar to that now required for burial have been produced nor within forty-eight hours after death, unless death has been occasioned by a communicable disease subject to quarantine and placard according to the *Public Health Act* and the regulations made thereunder, and so certified by a legally qualified medical practitioner, in which case a duly constituted local board of health may order that the body of the deceased be cremated forthwith. R.S.O. 1970, c. 57, s. 79.

R.S.O. 1980,
c. 409

Coroner's
certificate

80.—(1) No body shall be cremated unless a certificate in the prescribed form, signed by a coroner of the municipi-

pality in which the death took place, has been deposited with the owner, which certificate shall contain the statement that the cause of death has been definitely ascertained and that there exists no reason for further inquiry or examination.

(2) Where the death took place outside Ontario, the certificate required by subsection (1) may be issued by a coroner of the municipality in which the body is to be cremated. R.S.O. 1970, c. 57, s. 80. Where death outside Ontario

81. The owner has the right to refuse to cremate in any case without assigning reasons. R.S.O. 1970, c. 57, s. 81. Right to refuse cremation

82. The Lieutenant Governor in Council may make such regulations as are considered advisable for the better carrying out of this Act. R.S.O. 1970, c. 57, s. 82. Regulations

83. Every person who contravenes any provision of this Act or the regulations is guilty of an offence and on conviction, where no other penalty is provided, is liable to a fine of not less than \$5 and not more than \$100. R.S.O. 1970, c. 57, s. 83. General penalty

FORM 1

(Section 75 (2))

Take notice that a meeting will be held at (*naming a place in the local municipality in which the cemetery is situate*) at.....

in the.....of.....on the.....day of.....,

19...., at the hour of.....o'clock in the.....noon, for the purpose of electing trustees for the cemetery (*here insert description of land sufficient for the purpose of registration and name or designation, if any, of the cemetery*). The owners of plots are requested to attend the meeting.

Dated at.....the.....day of....., 19....

A.B., C.D., E.F.,

Plot Owners.

R.S.O. 1970, c. 57, Form 1.

FORM 2

(Section 75 (6))

We hereby certify that at a meeting of the owners of plots in the cemetery (*here insert description of land sufficient for the purpose of registration and the name or designation, if any, of the cemetery*),.....

.....of....., held pursuant to the

provisions of the *Cemeteries Act*, aton the.....

day of....., 19...., the following persons were elected trustees of the cemetery:

A.B.,....., of.....

C.D.,....., of.....

E.F.,....., of.....

(*insert occupation and place of residence of each trustee*).

WITNESS:

Chairman
Secretary

R.S.O. 1970, c. 57, Form 2.

CHAPTER 60

Centennial Centre of Science and Technology Act

1. In this Act,

Interpre-
tation

- (a) "Board" means the Board of Trustees of the Centre;
- (b) "Centre" means The Centennial Centre of Science and Technology;
- (c) "Minister" means the Minister of Culture and Recreation or such other member of the Executive Council as the Lieutenant Governor in Council designates.
R.S.O. 1970, c. 58, s. 1; O. Reg. 53/76.

2.—(1) The corporation without share capital known as The Centennial Centre of Science and Technology established on behalf of Her Majesty in right of Ontario is continued and the corporation shall consist of not fewer than sixteen and not more than twenty-six trustees.

Centre
established

(2) The centre shall have a seal, which shall be adopted by the Board by by-law.

Seal

(3) The fiscal year of the Centre commences on the 1st day of April in each year and ends on the 31st day of March in the following year.

Fiscal
year

(4) The *Corporations Act* does not apply to the Centre.
R.S.O. 1970, c. 58, s. 2.

R.S.O. 1980,
c. 95 not
to apply

3.—(1) The Lieutenant Governor in Council shall appoint the trustees of the Centre who shall be its Board of Trustees, and shall designate one of them as chairman and one of them as vice-chairman of the Board.

Appoint-
ment of
trustees

(2) A trustee may be appointed for a term not exceeding three years, but may be reappointed for one or more further terms.

Term

(3) The Centre may pay those of its trustees who are not officers in the public service of Ontario such remuneration and expense allowances as are from time to time fixed by the Lieutenant Governor in Council.

Remunera-
tion

Quorum (4) A majority of the trustees for the time being constitutes a quorum.

By-laws (5) The Board may, subject to the approval of the Minister, make by-laws regulating its proceedings and generally for the conduct and management of its internal affairs, and the *Regulations Act* does not apply to any such by-law.

R.S.O. 1980,
c. 446

Delegation to committees (6) A by-law establishing a committee of the Board may delegate to the committee such powers and duties of the Board as are determined in the by-law. R.S.O. 1970, c. 58, s. 3.

Powers of Board

4.—(1) The affairs of the Centre shall be under the control of the Board, and the Board has all the powers necessary or convenient to perform its duties or achieve the objects of the Centre.

Responsible to Minister

(2) The Board is responsible to the Minister.

Chairman

(3) The chairman shall preside at all meetings of the Board, and, in his absence or if the office of chairman is vacant, the vice-chairman has all the powers and shall perform the duties of the chairman. R.S.O. 1970, c. 58, s. 4.

Employees
R.S.O. 1980,
c. 418

5.—(1) A Director General of the Centre may be appointed under the *Public Service Act* and such other officers, clerks and servants as are considered necessary from time to time for the proper conduct of the business of the Centre.

Duties of Director General

(2) The Director General of the Centre shall have the management and administration of the Centre, subject to the supervision and direction of the Board. R.S.O. 1970, c. 58, s. 5.

Objects

6. The objects of the Centre are,

- (a) to depict to the public and to conduct a program of education in the origins, development and progress of science and technology, and their relationship to society;
- (b) to depict the role of Ontario in the furtherance of science and technology;
- (c) to stimulate the interest of the public in matters depicted by the Centre; and
- (d) to collect and exhibit objects and displays and to maintain and operate a museum and related facilities

for the furtherance of the objects of the Centre established as a project of Ontario in commemoration of the Confederation Centennial. R.S.O. 1970, c. 58, s. 6.

7.—(1) The moneys for the purposes of the Centre shall be ^{Funds} paid out of the moneys that are appropriated therefor by the Legislature.

(2) The Board may acquire money, securities or other ^{Idem} property, real or personal, by gift, devise, bequest or otherwise, and may expend, administer or dispose of any such money, securities or other property in the promotion of its objects, subject to the terms, if any, upon which such money, securities or other property were given, devised, bequeathed, or otherwise made payable to the Board or to the Centre. R.S.O. 1970, c. 58, s. 7.

8. The real and personal property, business and income ^{Exemption from taxation} of the Centre are exempt from all assessment and taxation made, imposed or levied by or under the authority of any Act of the Legislature. R.S.O. 1970, c. 58, s. 8.

9. The accounts and financial transactions of the Centre ^{Audit} shall be audited annually by the Provincial Auditor, and a report of the audit shall be made to the Board and to the Minister. R.S.O. 1970, c. 58, s. 9.

10. The Board shall make a report annually to the Minis- ^{Report} ter upon the affairs of the Centre, and the Minister shall submit the report to the Lieutenant Governor in Council and shall then lay the report before the Assembly if it is in session or, if not, at the next ensuing session. R.S.O. 1970, c. 58, s. 10.

11.—(1) The Lieutenant Governor in Council may make ^{Regulations} regulations,

- (a) establishing one or more endowment funds in furtherance of the objects of the Centre, and governing such funds;
- (b) regulating and governing the use by the public of the facilities, property and equipment of the Centre;
- (c) requiring the payment of fees for the admission of the public or any class thereof to the Centre, and prescribing the amounts;

(d) for any matter necessary or advisable to carry out effectively the intent and purpose of this Act.

Penalty

(2) A person who contravenes a regulation made under subsection (1) is guilty of an offence and on conviction is liable to a fine of not more than \$100. R.S.O. 1970, c. 58, s. 11.

CHAPTER 61

Certification of Titles Act

1. In this Act,

Interpre-
tation

(a) “assurance fund” means The Certification of Titles Assurance Fund;

(b) “Director” means the Director of Titles appointed under the *Land Titles Act*;

R.S.O. 1980,
c. 230

(c) “land registrar” means a land registrar appointed under the *Registry Act*;

R.S.O. 1980,
c. 445

(d) “prescribed” means prescribed by the regulations. 1979, c. 85, s. 1.

2. The Minister of Consumer and Commercial Relations is responsible for the administration of this Act. 1979, c. 85, s. 2.

Administration

3. This Act does not apply to land registered under the *Land Titles Act*. 1979, c. 85, s. 3.

Where Act
not to apply

4.—(1) An owner of or any person claiming an estate in fee simple in land, whether or not the land is encumbered, may apply in the prescribed manner to the Director to have the title to the land certified in the name of the applicant.

Application
for
certification

(2) A person whose claim to land is based on length of adverse possession may apply to the Director to have the title to the land certified in the name of the applicant.

Idem

(3) An application under subsection (1) shall be deemed to be an action for the recovery of land within the meaning of the *Limitations Act*. 1979, c. 85, s. 4.

Application
deemed action
for recovery
of land
R.S.O. 1980,
c. 240

5.—(1) A notice of an application under section 4 shall be served on every person or person of a class designated by regulation and the notice is sufficiently served if it is sent by registered mail addressed to that person at the address furnished under section 166 of the *Land Titles Act* or section 37 of the *Registry Act*, or where no such address has been furnished, addressed to the solicitor whose name appears on the registered instrument by which that person appears to have an interest.

Service
of notice

R.S.O. 1980,
cc. 230, 445

Where
consent

(2) Where a person to whom notice is required to be given under subsection (1) consents, in writing, to the application, no notice is required to be sent to that person. 1979, c. 85, s. 5.

Adverse
claim

6.—(1) A person having a claim adverse to or inconsistent with an application under section 4 may file a statement of claim, verified by affidavit, with the Director at any time before the certificate of title is registered.

Hearing

(2) Where a statement of claim is filed, the Director shall afford an opportunity for a hearing to determine the validity of the claim.

Parties

(3) The applicant, every person who has filed a statement of claim and such other persons as the Director may specify, are parties to the proceedings in which a hearing is held under this section.

Reference
to a judge

(4) The Director, instead of holding a hearing under subsection (2), may refer the matter to a judge of the county or district court of the county or judicial district in which the land is situate, or of such other county or judicial district as the parties agree to, who shall hear and determine the claim on the evidence before him or may direct the trial of an issue. 1979, c. 85, s. 6.

Copies to
be sent to
interested
parties

7.—(1) Where the Director makes a decision, a copy of the decision shall be sent by first class mail or delivered by the Director to the applicant and to every person who has filed a statement of claim under section 6.

Appeal

(2) Any party aggrieved by a decision of the Director may appeal to a judge of the county or district court of the county or judicial district in which the land to which the decision relates is situate, or of such other county or judicial district as the parties agree to, and the appeal shall be by trial *de novo*.

Appeal to
Divisional
Court

(3) An appeal lies from a decision of a judge of a county or district court under subsection (2) to the Divisional Court.

Notice of
appeal

(4) Notice of any appeal under this section shall be served on the Director. 1979, c. 85, s. 7.

Payment
of costs

8.—(1) An applicant under this Act is liable *prima facie* to pay all costs, charges and expenses incurred as a result of his application, except where parties whose rights are sufficiently secured without their appearance object or where any costs, charges or expenses are incurred unnecessarily or improperly.

Scale of
costs

(2) The Director may order costs, either as between party and party or as between solicitor and client, to be paid by or to

any person who is party to a proceeding under this Act, and may give directions as to the fund out of which the costs shall be paid, regard being had to subsection (1).

(3) Any person aggrieved by an order of the Director made under this section may appeal to a judge of a county or district court who may annul or, with or without modification, confirm the order.

Appeal from
Director's
order

(4) If a person disobeys an order of the Director made under this section, the Director may certify the disobedience to a judge of a county or district court, and thereupon, subject to the right of appeal, the order may be enforced in the like manner and by the like proceedings as if it were an order of the judge.

Enforcement
of order

(5) The amount of all costs, charges and expenses properly incurred by a trustee, mortgagee or other person having a power of selling land that are incidental to an application for a certificate of title shall be ascertained and declared by the Director, and shall be deemed to be costs, charges and expenses properly incurred by that person in the execution of the trust or in pursuance of the power, and he may retain or reimburse the same to himself out of any money coming to him under the trust or power, and he is not liable to account in respect thereof. 1979, c. 85, s. 8.

Cost of
application
by trustee,
etc.

9. When the Director has completed his examination and any matter referred to a judge is finally disposed of, or where a hearing has been held and the Director has made his decision and any appeal therefrom has been disposed of, or where the time for appeal has elapsed and no appeal has been taken, the Director may issue a certificate of title to all or part of the land or dismiss the application, as the case may be. 1979, c. 85, s. 9.

Disposition
of
application

10. A certificate of title shall be registered by the Director in the land registry office for the registry division in which the land is situate. 1979, c. 85, s. 10.

Registration
of
certificate

11. Upon registration under section 10, a certificate of title is conclusive as of the day, hour and minute stated therein that the title of the person named as owner of the land described therein is absolute and indefeasible as regards the Crown and all persons whomsoever, subject only to the exceptions, limitations, qualifications, reservations and conditions, covenants, restrictions, charges, mortgages, liens and other encumbrances mentioned therein, and is conclusive that every application, notice, publication, proceeding and act that ought to have been made, given or done, has been made, given or done in accordance with this Act. 1979, c. 85, s. 11.

Effects of
certificate
of title

Certification
of Titles
Assurance
Fund
continued

12.—(1) The fund, known as The Certification of Titles Assurance Fund, formed to compensate persons who may be wrongfully deprived of land or some estate or interest therein by reason of the title to the land being certified under this Act, is continued.

Payment
into fund

(2) Before a certificate of title is registered, the applicant shall pay, to the credit of the assurance fund, in addition to all other fees, an amount of money equal to one-tenth of 1 per cent of the value of the land described in the certificate.

Buildings

(3) Where there are buildings on the land, the value of the land shall include the value of the buildings.

Maximum
payment

(4) Where the amount calculated under subsection (2) exceeds \$500, the amount payable is \$500.

Minimum
payment

(5) Where the amount calculated under subsection (2) is less than \$25, the amount payable is \$25.

Valuation
of land

(6) The value of the land shall be ascertained as of,

(a) the date of application; or

(b) a date not more than sixty days before the registration of the certificate,

whichever is later.

Proof of
value

(7) If the Director is not satisfied as to the value as established by the affidavit of the applicant, the Director may require a written appraisal of the land by a qualified appraiser whose account shall be added to the costs of the application.

Applicant
may be
required to
indemnify fund

(8) The Director may require an applicant to indemnify the assurance fund against loss by a bond or covenant in the prescribed form, either with or without sureties or by such other security as he considers proper.

Money
to be paid
into court

(9) The money payable under this section shall be paid into the Supreme Court and money standing to the credit of the fund shall be invested from time to time under the direction of the finance committee under section 111 of the *Judicature Act*, and such of the interest and income therefrom, as the finance committee from time to time determines, shall be credited to the assurance fund. 1979, c. 85, s. 12.

R.S.O. 1980,
c. 223

Claim
against
fund

13.—(1) Where, as a result of section 11, a person is wrongfully deprived of any interest in land, he is entitled to recover what is just by way of compensation out of the assur-

ance fund, so far as it is sufficient for that purpose having reference to other charges thereon, if the application is made within six years from the time of having been so deprived, or in the case of a person under the disability of infancy, mental incompetency or unsoundness of mind, within six years from the date at which the disability ceased.

(2) A person is not entitled to compensation from the assurance fund in respect of an interest in land existing before the effective date of the certificate of title unless that interest is registered under the *Registry Act* against the title to the land or notice of it is given to the Director before the certificate is registered. Where no compensation R.S.O. 1980, c. 445

(3) Where a claim is made under subsection (1) in respect of land whose chief value is the ores, mines or minerals therein and it appears that the claimant is entitled to compensation, the entire value of the land, including buildings thereon, shall not be taken at a greater sum than twice the amount that was paid for the original grant from the Crown. Mining lands

(4) A person claiming to be entitled to payment of compensation out of the assurance fund shall apply to the Director. Application for payment

(5) Except where he determines that the claim be paid in full, the Director shall hold a hearing and the claimant and such other persons as the Director may specify are parties to the proceedings before him. Hearing

(6) The liability of the assurance fund for compensation and the amount of compensation shall, subject to appeal to a judge of a county or district court, be determined by the Director, and the costs of the proceedings under this section shall be in the discretion of the Director or the judge, as the case may be. Determination of payment

(7) The Director shall serve notice of his determination under subsection (6) by first class mail on the claimant. Appeal

(8) Where the Director determines that compensation should be paid but that the claim not be paid in full, the claimant, if he intends to appeal, shall, within a period of twenty days after the date of mailing of the notice under subsection (7), serve on the Director notice of his intention to appeal, and the Director shall not certify under subsection (9) the amount to the Accountant of the Supreme Court if a notice of appeal is received within that period or until after the expiry of that period if no notice of appeal is received. Time for appeal

(9) Subject to subsection (8), the Director shall certify to the Accountant of the Supreme Court any amount found to be payable Payment out of fund

under this section and, upon receipt of the certification of the Director, the Accountant of the Supreme Court shall pay the amount to the person entitled thereto.

Liability
for fraud
and error

(10) Any sum paid out of the assurance fund may, for the benefit of the assurance fund, be recovered by action in the name of the Director from the person on whose application the erroneous certificate of title was registered, or from his estate, and the Director's certification of the payment out of the assurance fund is sufficient proof of the debt. 1979, c. 85, s. 13.

Where
death or
change of
interest
occurs

14. Proceedings under this Act shall not abate or be suspended by any death or change of interest, but in any such event the Director may require notice to be given to persons becoming interested, or may make an order for discontinuing, suspending or carrying on the proceedings or otherwise as he considers proper. 1979, c. 85, s. 14.

Regulations

15. The Lieutenant Governor in Council may make regulations,

- (a) designating persons or classes of persons to whom notice of an application under section 4 shall be given and specifying the manner in which notice may be given;
- (b) requiring the payment of fees upon the performance of any official function under this Act and prescribing the amounts thereof;
- (c) prescribing forms and providing for their use;
- (d) prescribing the manner of making an application for certification of title and the material to be submitted with the application;
- (e) governing standards and procedures for surveys and plans made for the purposes of this Act;
- (f) prescribing administrative procedures for the purposes of this Act;
- (g) prescribing the procedures to be followed by land registrars with respect to matters under this Act;
- (h) governing the correction of errors in certificates of title. 1979, c. 85, s. 15.

CHAPTER 62

Change of Name Act

1. In this Act,

Interpre-
tation

- (a) "applicant" means a person applying for a change of name under this Act;
- (b) "application" means an application for a change of name under this Act;
- (c) "change" means any change by way of alteration, substitution, addition or abandonment;
- (d) "child" includes a child adopted under the laws of Ontario;
- (e) "given name" includes a Christian name and a baptismal name;
- (f) "name" includes a given name and a surname;
- (g) "Registrar General" means the Registrar General under the *Vital Statistics Act*;
- (h) "surname" includes a family name and patronymic. R.S.O. 1970, c. 60, s. 1.

2.—(1) Subject to section 13 of the *Vital Statistics Act* and section 78 of the *Child Welfare Act* and except in the case of a change of surname to that of her husband by a woman upon her marriage and except in the case of the adoption of her maiden name by a woman upon the annulment or dissolution of her marriage, a person shall change his name only under this Act.

(2) Nothing in this Act shall be deemed to affect any change of name effected under any right that existed at law before the 26th day of June, 1939. R.S.O. 1970, c. 60, s. 2 (1, 2).

(3) Any person of the full age of eighteen years who effected a change of name in Ontario under a right that existed at law before the 26th day of June, 1939, may make an application under this Act to change his name from the

Compliance
with Act
R.S.O. 1980,
cc. 52+, 66

Saving

Application
where name
changed
before
June 26,
1939

name he bore before the change to the name he bears as a result of the change, as though the change had not been effected. 1972, c. 44, s. 1.

Who may
apply

3. Any person may make an application who has had his ordinary residence in Ontario for at least one year immediately before making the application and who is at least eighteen years of age. 1972, c. 44, s. 2.

Application
by married
person

4.—(1) A married person applying for a change of surname shall also apply for a change of the surnames of his or her spouse and of all unmarried minor children of the husband or of the marriage.

Idem

(2) A married person may apply for a change of the given names of any or all of his or her unmarried minor children. 1972, c. 44, s. 3.

Application
by widower
or widow

5.—(1) Where a widower or widow applies for a change or surname, he or she shall also apply for a change of the surname of all of his or her unmarried minor children.

Idem

(2) A widower or widow may apply for a change of the given name or names of any or all of his or her unmarried minor children. R.S.O. 1970, c. 60, s. 5.

Application
by divorced
person on
behalf of
children

6.—(1) A person whose marriage has been dissolved may make an application for a change of the name or names of any or all of his unmarried minor children of whom he has lawful custody.

Proof
required

(2) An application under this section shall be accompanied by such proof that the marriage has been dissolved and that the applicant has lawful custody of the children named in the application as the judge may require.

Consent
of other
parent

(3) No application under this section shall be granted unless the other parent, if living, of the child or children is served with notice of the application and consents to the change of name. R.S.O. 1970, c. 60, s. 6 (1-3).

Application
by divorced
woman who
remarries

(4) A woman whose marriage has been dissolved and who remarries may apply under this section for a change of the surname of her child or children to her surname on remarriage, but no such application shall be granted unless her husband, if living, consents. R.S.O. 1970, c. 60, s. 6 (4); 1972, c. 44, s. 4.

7. Where an unmarried mother makes an application, she may also make an application for any of her unmarried minor children of whom she has lawful custody. R.S.O. 1970, c. 60, s. 7. Application by unmarried mother

8. An unmarried mother who marries, or a widowed mother who remarries, may make an application, with the consent of her husband if living, for a change of the surname of her unmarried minor children, not being her husband's children, so that their surname shall be her surname by marriage. R.S.O. 1970, c. 60, s. 8; 1972, c. 44, s. 5. Application by mother in certain circumstances

9.—(1) Where an application includes an application for a change of the name of the spouse of the applicant or of any unmarried minor children of the age of fourteen years or over, the consent in writing of all such persons shall be obtained, and all such persons shall appear on the hearing of the application, but where the spouses have, in the opinion of the judge, been living apart for a period of five years immediately before the application, the judge may hear the application in the absence of and without the consent of the spouse who is not applying, in which case no change of his or her name shall be effected. Consent of spouse and children

(2) Where the consent of any person is required under subsection 6 (3) or (4) or under section 8, the consent in writing of all such persons shall be obtained, and all such persons shall appear on the hearing of the application. Consent of other parent or spouse

(3) Notwithstanding subsection (2), where the judge is satisfied that the other parent in the case of an application under section 6 does not contribute to the support of the applicant or the children on whose behalf the application is made, or cannot be found, or is incapable of giving such consent, or for any reason is a person whose consent ought to be dispensed with, the judge may dispense with the service of the notice of the application on such person and may hear the application in his or her absence and without his or her consent. 1972, c. 44, s. 7. Dispensing with consent

10.—(1) Every application shall be made to a judge of the county or district court of the county or district in which the applicant has resided for a period of one year immediately before the making of the application, and shall be heard at such time and place as the judge may appoint in writing. Application to judge

(2) Where the judge who has appointed a time and place for the hearing of the application becomes ill or dies or for any other reason is unable to hear the application at the Where judge unable to hear application

time and place so appointed, the application may be heard by another judge of the same county or district court or by any judge who is for the time being acting as a judge of such court. R.S.O. 1970, c. 60, s. 11.

Application
where
applicant
has not
resided in
county or
district for
one year

11.—(1) Notwithstanding subsection 10 (1), the applicant may apply to a judge of the county or district court in the county or district in which he resides for authority to make application without having resided in such county or district for a period of one year immediately before the application.

Idem

(2) The judge shall inquire into the circumstances, and, if he is satisfied that the applicant would otherwise suffer hardship, he may make an order authorizing the applicant to make application forthwith and the order suffices in the stead of the affidavit required by subsection 12 (2) in so far as that affidavit refers to residence.

Idem

(3) The judge may in the order require the applicant to publish, in addition to the notice required by subsection 13 (1), such additional notice in such counties or districts as he considers necessary, and an affidavit as to publication of such additional notice shall accompany the application for a change of name. R.S.O. 1970, c. 60, s. 12.

Particulars
of
application

12.—(1) Every application shall set forth,

- (a) the address and the date and place of birth of the applicant;
- (b) where the applicant is married, the name in full before marriage of the applicant's spouse, and the date and place of the marriage;
- (c) the name in full of the applicant's father and, where the applicant is married, the name in full of the father of the spouse of the applicant;
- (d) the maiden name in full of the mother of the applicant and, where the applicant is married, the maiden name in full of the mother of the spouse of the applicant;
- (e) that he has had his ordinary residence in Ontario for a period of not less than one year immediately before making the application;
- (f) his occupation, profession or calling;
- (g) whether he has been convicted of a criminal offence and the particulars of any such offence;

- (h) a statement containing full particulars of any judgment or action pending against him, or any chattel mortgage, lien or other registered encumbrance against his personal property, or, if none, a statement to that effect;
- (i) the name proposed to be adopted;
- (j) a statement containing full particulars of any change of name effected previously, or, if none, a statement to that effect;
- (k) the names, dates and places of birth and other similar particulars with respect to all other persons whose names may be changed as a result of the application;
- (l) a statement of the reasons for desiring the change of name. R.S.O. 1970, c. 60, s. 13 (1); 1972, c. 44, s. 8.

(2) Every application shall be accompanied by an affidavit of the applicant deposing, Application to be accompanied by affidavit

- (a) that he has resided in the county or district in which the application is made for a period of not less than one year immediately before the making of the application;
- (b) that the statements contained in the application are true; and
- (c) that the application is made by the applicant in good faith and for no improper purpose. R.S.O. 1970, c. 60, s. 13 (2).

(3) Every application shall be accompanied by,

- (a) a certificate of the sheriff of the county or district in which the application is made and of every other county or district that the judge directs, as to the existence of any unsatisfied executions in his hands against the property of each person of the full age of eighteen years whose name may be changed as a result of the application;
- (b) a certificate of the Registrar in Bankruptcy of the Supreme Court of Ontario as to the appearance in the index book kept pursuant to section 181 of the *Bankruptcy Act* (Canada) of the name of each person

Certificate as to executions and bankruptcy

R.S.C. 1970, c. B-3

of the full age of eighteen years whose name may be changed as a result of the application; and

- (c) where practicable, a certificate of the registration of the birth of the applicant and of each other person whose name may be changed as a result of the application and a certificate of the registration of the marriage where the spouse is named in the application. R.S.O. 1970, c. 60, s. 13 (3); 1971, c. 98, s. 4, Sched., par. 5.

Notice of
application

13.—(1) Every applicant shall publish once in *The Ontario Gazette* and once a week for three consecutive weeks in a newspaper having general circulation in the locality in which he resides, a notice of the application stating the name and address and proposed name of every person whose name may be changed as a result of the application, and the time and place of the hearing of the application.

Time of
application

(2) No application shall be heard until the expiration of fourteen days after the date of the last publication of the notice.

Where
notice of
application
may be
dispensed
with

(3) A judge may by order dispense with the necessity of publishing notice of the application as required by subsection (1) if, in his opinion,

- (a) the applicant would be unduly prejudiced or embarrassed by such publication;
- (b) the change of name applied for is of a minor character; or
- (c) the applicant has been commonly known under the name applied for. R.S.O. 1970, c. 60, s. 14.

Documents
to be filed

14. Every applicant shall file with the clerk of the court in which the application is made,

- (a) the application with the affidavit referred to in subsection 12 (2) in duplicate;
- (b) the certificates required under subsection 12 (3);
- (c) an affidavit as to publication of the notice of the application or a notarial copy of the order made under subsection 13 (3) dispensing with such publication; and

- (d) the appointment for the hearing. R.S.O. 1970, c. 60, s. 15; 1972, c. 44, s. 9.

15.—(1) Upon the hearing, the judge may require the ^{Hearing} applicant, any person whose name may be changed as a result of the application, or any other person appearing upon the hearing to give evidence under oath, and may examine or cross-examine any such person or permit any such person to be examined or cross-examined.

(2) Any person who objects to a change of name and ^{Objections} any person who desires to furnish the court with any information regarding the application or any circumstances connected therewith may appear upon the hearing of the application and shall be heard. R.S.O. 1970, c. 60, s. 16.

16.—(1) Where the judge is of opinion that the name that ^{Refusal of application} the applicant seeks to adopt is the same as the name of another person or resembles the name of another person to such an extent that the change applied for might reasonably cause mistake or confusion or be a cause of embarrassment or inconvenience to such person, or that the change of name is sought for any improper purpose, or is on any other ground objectionable, or that the application should be refused for any other reason, he shall refuse the application.

(2) Where the judge, upon consideration of the application, ^{Granting of application} the material filed and any other evidence adduced, is of opinion that the application should be granted, he may make an order effecting the change of name.

(3) An order made under this section may provide for such ^{Scope of order} changes of names as the court considers proper having regard to the nature of the application, the relationship and status of other persons mentioned in the application and all other relevant circumstances, and every such order has effect according to the tenor thereof. R.S.O. 1970, c. 60, s. 17.

17.—(1) The clerk of the court shall enter the order and ^{Certified copy to Registrar General} transmit a certified copy of the order, together with a duplicate original of the application and of the verifying affidavit and any certificate of registration of birth or marriage or the particulars contained therein, to the Registrar General.

(2) Where the Registrar General receives a certificate of ^{Return of certificates} birth or marriage under subsection (1), the Registrar General shall,

- (a) where the certificate was issued in respect of a birth or marriage that was registered in Ontario, reissue

R.S.O. 1980,
c. 524

the certificate in accordance with section 26 of the *Vital Statistics Act*, without payment of any fee therefor, and send the reissued certificate to the applicant;

- (b) where the certificate was issued in respect of a birth or marriage that was registered outside Ontario, return the certificate to the applicant. R.S.O. 1970, c. 60, s. 18.

Notice of
judgment,
etc., sent
to sheriff
or clerk

18.—(1) The clerk of the court shall send to the appropriate sheriff or court clerk full particulars of the order made and of any judgment, pending action, chattel mortgage, lien or other registered encumbrance shown upon the application.

Idem

(2) Such sheriff or court clerk shall enter and reindex such judgment, pending action, chattel mortgage, lien or other registered encumbrance under the name as changed. R.S.O. 1970, c. 60, s. 19.

Certificates
issued to
applicants

19. Any person may, upon payment of the prescribed fee, obtain from the clerk of the court in which the order was made a certificate of any order effecting a change of name, and the certificate is for all purposes conclusive evidence of its contents. R.S.O. 1970, c. 60, s. 20.

Substitution
of new
name in
documents

20. Subject to the *Vital Statistics Act*, without restricting the effect that a change of name may have at law, any person whose name has been changed under this Act, upon production of a certificate obtained under section 19 and upon satisfactory proof of identity, is entitled to have a memorandum of the change of name endorsed on any record, certificate, instrument, document, contract or writing, whether public or private, upon payment of such fee as is prescribed therefor by or under any statute. R.S.O. 1970, c. 60, s. 21.

Application
for annul-
ment

21.—(1) Any person who has reason to believe that an order effecting a change of name has been obtained by fraud or misrepresentation or for an improper purpose may apply to a judge of the county or district court in which the order was made for an annulment of the order.

Affidavit
giving
reasons

(2) Every application for an annulment shall be accompanied by an affidavit of the person making the application in which his reasons for believing that the order was obtained by fraud or misrepresentation or for any improper purpose shall be set forth.

Hearing of
application

(3) The judge may refuse the application without hearing further representations or evidence or may direct that the

person applying for the annulment and any other persons shall be heard at such time and place as he determines and that notice of the hearing shall be given to such persons and in such manner as he may direct.

(4) If the judge is satisfied that the order was obtained by fraud or misrepresentation or for an improper purpose, he may order the annulment of the order in whole or in part.

(5) The clerk of the court shall endorse a memorandum of the annulling order upon the entry of the order annulled in whole or in part and shall send a certified copy of the annulling order to the Registrar General, and, where appropriate by reason of section 18, to the proper sheriff or court clerk who shall amend his records to accord with the order.

(6) Where a change of name has been annulled, the Registrar General may by order require any person to whom a certificate has been issued under section 19 to forthwith deliver up the certificate, and any person who refuses or neglects to comply with such order is guilty of an offence and on conviction is liable to a fine of not more than \$100. R.S.O. 1970, c. 60, s. 22.

22.—(1) Any person who by fraud or misrepresentation obtains a change of name under this Act is guilty of an offence and on conviction is liable to a fine of not more than \$500 or to imprisonment for a term of not more than six months.

(2) Any person whose application for a change of name is refused under subsection 16 (1) and who uses the name he sought to adopt in such application is guilty of an offence and on conviction is liable to a fine of not more than \$500 or to imprisonment for a term of not more than six months.

(3) Any person who, after having been convicted of an offence against this Act, again offends against this Act is liable to a fine of not more than double the maximum fine provided for the offence. R.S.O. 1970, c. 60, s. 23.

23. The Lieutenant Governor in Council may make regulations,

(a) prescribing forms of applications, affidavits and certificates;

(b) prescribing the fees payable upon any application and upon any certificate, search or other matter required or permitted to be given or done under this Act and to whom such fees are payable;

- (c) providing for the return of any fee upon an application or part of such fee where the application is refused;
- (d) respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act. R.S.O. 1970, c. 60, s. 24.

CHAPTER 63

Charitable Gifts Act

1. In this Act, "person" includes a corporation and the heirs, executors, administrators or other legal representatives of a person to whom the context can apply according to law. ^{Interpre-}
R.S.O. 1970, c. 61, s. 1. ^{tation}

2.—(1) Notwithstanding the provisions of any general or special Act, letters patent, by-law, will, codicil, trust deed, agreement or other instrument, wherever an interest in a business that is carried on for gain or profit is given to or vested in a person in any capacity for any religious, charitable, educational or public purpose, such person has power to dispose of and shall dispose of such portion thereof that represents more than a 10 per cent interest in such business. ^{Where}
^{interest}
^{to be}
^{disposed of}

(2) Subsection (1) does not apply to an interest in a business given to or vested in any organization of any religious denomination. ^{Exception}

(3) Where an interest to which subsection (1) applies is subject to a life interest, life annuity or income for life, so much of the interest as is necessary to provide such life interest, life annuity or income for life shall be deemed to be given or vested when such life interest, life annuity or income for life ceases to exist. ^{Life}
^{interests,}
^{etc.}

(4) For the purposes of this Act, a person shall be deemed to have an interest in a business, ^{Meaning of}
^{"interest"}

(a) if he is a part owner of the business;

(b) if he holds or controls, directly or indirectly through a combination or series of two or more persons, one or more shares in a corporation that owns or controls or partly owns or controls the business; or

(c) if he holds or controls, directly or indirectly through a combination or series of two or more persons, one or more bonds, debentures, mortgages or other securities upon any asset of the business.

Idem

(5) For the purposes of this Act but subject to subsection (3), an interest in a business shall be deemed to be given to or vested in a person for a religious, charitable, educational or public purpose so long as the interest or the proceeds thereof or the income therefrom is to be used for any such purpose at any time and notwithstanding that before any such use is made thereof the interest or the proceeds thereof or the income therefrom is to pass into or through the hands of one or more persons or is subject to a life or other intermediary interest. R.S.O. 1970, c. 61, s. 2.

Where interest to be disposed of, wills

3.—(1) Where an interest to which section 2 applies was given or vested pursuant to a will or other testamentary instrument, section 2 shall be complied with within seven years after the death of the testator.

Idem, trust deeds, etc.

(2) Where an interest to which section 2 applies was given or vested pursuant to an instrument other than a will or other testamentary instrument, section 2 shall be complied with within seven years after the date of the instrument.

Extension of time

(3) A judge of the Supreme Court may from time to time extend the period mentioned in subsection (1) or (2) for such further period as he considers proper, if he is satisfied that the extension will benefit the religious, educational, charitable or public purpose concerned. R.S.O. 1970, c. 61, s. 3.

Determination of profits

4.—(1) Where and so long as an interest to which section 2 applies represents more than a 50 per cent interest in the business, the person to whom it is given or in whom it is vested and the person having control of the management of the business or his nominee and the Public Trustee shall on or before the 30th day of June in each year determine jointly the amount of the profits earned by the business in its fiscal year ending in the calendar year next preceding.

Distribution of profits

(2) The business shall pay to the person to whom the interest is given or in whom it is vested his share of the then undistributed profits of the business in the amounts and on the dates determined jointly by the persons mentioned in subsection (1).

Annual return

(3) For the purposes of this section, the person to whom the interest is given or in whom it is vested shall on or before the 31st day of March in each such year deliver to the Public Trustee a return with respect to its fiscal year ending in the calendar year next preceding showing,

(a) the assets and liabilities of the business;

- (b) all accounts of profit and loss of the business;
- (c) the particulars of any fee paid to any director; and
- (d) where the amount of salary and other remuneration paid to any person is \$8,000 or more, the particulars thereof,

and the return shall be verified by the certificate of an officer or the auditor of the business that the statements therein are true.

(4) For the purposes of this section, the Public Trustee may require of any person such further or other information and may make such examination of the accounts and records of the business as he considers necessary. Examination of accounts, etc.

(5) If the persons mentioned in subsection (1) fail to determine jointly any matter mentioned in subsection (1) or (2), the matter shall be determined by a judge of the Supreme Court, and in determining the amount of the profits of the business the judge may disallow in whole or in part any deduction, expenditure, expense, reserve, allowance or other sum that he considers to be unnecessary, excessive or improper having regard to the nature of the business and its financial position. R.S.O. 1970, c. 61, s. 4. Determination by Supreme Court

5. Where an interest in a business is being disposed of pursuant to section 2, any person acquiring any portion of such interest for other than religious, charitable, educational or public purposes may, subject to the approval of a judge of the Supreme Court as to the consideration for and the terms and conditions of the acquisition, so acquire such portion notwithstanding that he is the person disposing of such interest or is an officer, director, agent or employee of such person. R.S.O. 1970, c. 61, s. 5. Rights of acquisition

6. The proceeds of any disposition pursuant to section 2 may be invested only in investments authorized by the *Insurance Act* for the investment of the funds of joint stock insurance companies, but no such investment shall be made that results in the person making the investment holding more than a 10 per cent interest in any one business. R.S.O. 1970, c. 61, s. 6. Investment of proceeds R.S.O. 1980, c. 218

7.—(1) The Treasurer of Ontario may appoint any person to make an investigation for any purpose related to the administration or enforcement of this Act respecting any interest in any business that has been given to or vested in any person for any religious, charitable, educational or Investigation

public purpose or respecting any person to or in whom any such interest has been given or vested.

Powers

R.S.O. 1980,
c. 411

(2) Every person appointed under subsection (1) to make an investigation has the powers of a commission under Part II of the *Public Inquiries Act*, which Part applies to the investigation as if it were an inquiry under that Act. 1971, c. 50, s. 15.

Powers of
court

8. Upon the application of the Attorney General or any person interested, a judge of the Supreme Court may make such orders as he considers proper to carry out the intent of this Act or to determine any matter arising under it. R.S.O. 1970, c. 61, s. 8; 1972, c. 1, s. 9 (7).

Offences

9. Every person who contravenes any provision of this Act is guilty of an offence and on conviction is liable to a fine of not less than \$100 and not more than \$5,000 or to imprisonment for a term of not more than one year, or to both. R.S.O. 1970, c. 61, s. 9.

R.S.O. 1980,
c. 65, not
affected

10. Nothing in this Act affects the operation of the *Charities Accounting Act*. R.S.O. 1970, c. 61, s. 10.

CHAPTER 64

Charitable Institutions Act

1. In this Act,

Interpre-
tation

- (a) "approved charitable institution" means a charitable institution approved under section 3;
- (b) "approved corporation" means a corporation approved under section 2;
- (c) "charitable institution" means all or any part of a building or buildings maintained and operated by an approved corporation for persons requiring residential, sheltered, specialized or group care, but does not include,
 - (i) a children's institution under the *Children's Institutions Act*, R.S.O. 1980,
c. 67
 - (ii) a home or joint home under the *Homes for the Aged and Rest Homes Act*, R.S.O. 1980,
c. 203
 - (iii) a home for retarded persons under the *Homes for Retarded Persons Act*, R.S.O. 1980,
c. 201
 - (iv) an institution under the *Mental Hospitals Act*, R.S.O. 1980,
c. 263
 - (v) a private hospital under the *Private Hospitals Act*, R.S.O. 1980,
c. 389
 - (vi) a sanitarium under the *Private Sanitaria Act*, R.S.O. 1980,
c. 391
 - (vii) a hospital under the *Public Hospitals Act*, R.S.O. 1980,
c. 410
 - (viii) a sanatorium under the *Sanatoria for Consumptives Act*, R.S.O. 1980,
c. 463
- (d) "Director" means a Director appointed for the purposes of this Act;
- (e) "hostel" means a charitable institution for the temporary care of transient or homeless persons;

- (f) "Minister" means the Minister of Community and Social Services;
- (g) "provincial supervisor" means a child welfare supervisor, a welfare institutions supervisor or a Director and includes any other employee of the Ministry of Community and Social Services who is designated by the Minister as a provincial supervisor for the purposes of this Act;
- (h) "regulations" means the regulations made under this Act. R.S.O. 1970, c. 62, s. 1; 1972, c. 1, s. 19 (3); 1973, c. 24, s. 1.

Approval of
corporations

R.S.O. 1980,
c. 95

2. Where the Minister is satisfied that any corporation without share capital having objects of a charitable nature to which Part III of the *Corporations Act* applies or that is incorporated under a general or special Act of the Parliament of Canada is, with financial assistance under this Act, financially capable of establishing, maintaining and operating a charitable institution and that its affairs are carried on under competent management in good faith for charitable purposes, he may approve such corporation for the purposes of this Act. 1971, c. 50, s. 16 (1); 1973, c. 24, s. 2.

Approval of
buildings

3.—(1) Subject to section 4, where the Minister is satisfied that all or any part of a building or buildings is suitable for providing accommodation as a charitable institution in accordance with this Act and the regulations, he may approve all or any part of such building or buildings, as the case may be, as a member of a class of charitable institutions prescribed in the regulations for the maintenance and operation of which assistance may be given under this Act.

Effective
date of
approval

(2) An approval given under subsection (1) or under section 2 may take effect on any date fixed by the Minister that is prior to the date on which the approval is given, but in no case shall the date upon which the approval under subsection (1) takes effect precede the date that the approval given under section 2 to the corporation maintaining and operating the institution takes effect. 1973, c. 24, s. 3.

Evaluation
and survey

4.—(1) Before selecting or acquiring a site or erecting or acquiring a building for use as a charitable institution, an approved corporation establishing the charitable institution shall,

- (a) evaluate the site in accordance with the regulations to determine whether it will best serve the programs of the institution and the best interests of the prospective residents of the institution; and

- (b) conduct a survey of the community and a review of population requirements in accordance with the regulations,

and submit a report thereof to the Minister. 1972, c. 61, s. 3.

(2) Subsection (1) does not come into force until a day to be named by proclamation of the Lieutenant Governor. 1972, c. 61, s. 10 (3). Commence-
ment of
subs. (1)

5.—(1) No approved corporation shall,

Restrictions
upon
approved
corporations

- (a) change its name or the name of any charitable institution maintained and operated by it without the approval in writing of the Minister;

- (b) erect a new building to be used as a charitable institution until the site and plans thereof are approved in writing by the Minister, or erect an addition to an existing building used or to be used as a charitable institution until the plans thereof are approved in writing by the Minister;

- (c) purchase or otherwise acquire any building or part thereof to be used by it as a charitable institution without the approval in writing of the Minister; or

- (d) change the site or use of, sell or otherwise dispose of any part of, or structurally alter, any charitable institution in respect of which the approved corporation has received payment of a grant under section 6, 7 or 8, or any predecessor thereof, without the approval in writing of the Minister. R.S.O. 1970, c. 62, s. 4 (1); 1972, c. 61, s. 4 (2); 1973, c. 24, s. 4.

(2) No by-law of an approved corporation with respect to a charitable institution has force or effect until it is approved in writing by the Minister. R.S.O. 1970, c. 62, s. 4 (2). Approval of
by-laws

(3) On a day to be named by proclamation of the Lieutenant Governor, clause (1) (b) is repealed and the following substituted therefor: Cl. (1) (b),
re-enacted

- (b) erect a new building or an addition to an existing building for use as a charitable institution until,

- (i) the need for the building or the addition has been established to the satisfaction of the Minister,
- (ii) in the case of the erection of a new building, the site, selected and evaluated in accordance with the regulations, has been approved by the Minister, and
- (iii) the plans therefor, developed and prepared in accordance with the regulations, have been approved in writing by the Minister. 1972, c. 61, ss. 4 (1), 10 (3).

Grants for
construction
of buildings
or additions

6. Where the site and plans of a new building or the plans of an addition to an existing building used or to be used as a charitable institution have been approved by the Minister under clause 5 (1) (b), the Minister may, out of the moneys that are appropriated therefor by the Legislature, direct payment to the approved corporation erecting the new building or the addition,

- (a) where all or any part of the new building or the addition is to be used as a charitable institution other than a hostel, of an amount equal to the cost to the approved corporation of the new charitable institution, computed in accordance with the regulations, but not exceeding an amount based upon the bed capacity of the new charitable institution at the rate of \$5,000 per bed or such greater amount per bed as is prescribed by the regulations; and
- (b) where all or any part of the new building or the addition is to be used as a hostel, of an amount equal to 30 per cent of the cost to the approved corporation of the new hostel, computed in accordance with the regulations, but not exceeding an amount based upon the bed capacity of the new hostel at the rate of \$1,500 per bed, or such greater amount per bed as is prescribed by the regulations, but no payment shall be made under this clause unless the council of the municipality in which the new building or the addition is situated directs payment to the approved corporation erecting the new hostel of an amount equal to at least 20 per cent of the cost thereof to the approved corporation. R.S.O. 1970, c. 62, s. 5; 1972, c. 61, s. 5; 1973, c. 24, s. 5.

Grants for
acquisition
of buildings

7. Where,

- (a) the acquisition or structural alteration of a building or any part thereof to be used as a charitable in-

stitution other than a hostel has been approved by the Minister under clause (d) or (e), as the case may be, of subsection 5 (1); or

- (b) the Minister has approved the renovation of a charitable institution other than a hostel or approved the purchase of furnishings or equipment in connection with an approved charitable institution other than a hostel,

the Minister may, out of the moneys that are appropriated therefor by the Legislature, direct payment to the approved corporation acquiring or operating and maintaining the institution, as the case may be, of an amount equal to the cost to the approved corporation of the acquisition, alteration, renovation or purchase of furnishings or equipment, as the case may be, computed in accordance with the regulations, but not exceeding an amount based upon the bed capacity of the institution at the rate of \$1,200 per bed or such greater amount per bed as is prescribed by the regulations. 1973, c. 24, s. 6.

8. There shall be paid to an approved corporation out of the moneys appropriated therefor by the Legislature an amount equal to 80 per cent or such higher percentage as the regulations prescribe of the cost, computed in accordance with the regulations,

Maintenance grants for institutions other than hostels

- (a) of the care and maintenance of each person resident in an approved charitable institution other than a hostel that is maintained and operated by the corporation; or
- (b) of residential services approved by the Director provided by or on behalf of the corporation in other than an approved charitable institution. 1973, c. 24, s. 7.

9.—(1) Any person,

Extended care services

- (a) who has been admitted to an approved charitable institution; and
- (b) who is eligible for extended care services under the *Health Insurance Act* on the grounds of medical necessity,

R.S.O. 1980, c. 197

may receive extended care services available in the approved charitable institution where the institution has been authorized by the Director in accordance with the regulations to provide such services.

Application of
R.S.O. 1980,
c. 197

(2) The provisions of the *Health Insurance Act* apply with necessary modifications to a determination under subsection (1) of eligibility for extended care services on the grounds of medical necessity and to appeals therefrom.

Entitlement
to services

(3) Notwithstanding subsections (1) and (2), an applicant for extended care services who has been found eligible therefor under this or any other Act does not thereby become entitled as of right to such services in an approved charitable institution. 1972, c. 61, s. 8.

Inspection
of books of
charitable
institutions

10.—(1) Every charitable institution, its books and records shall be open at all reasonable times for inspection by a provincial supervisor.

Idem

(2) Every premises, that is not a charitable institution, where residential services are provided or where residential services are to be provided for persons placed therein by an approved corporation, shall be open at all reasonable times for inspection by a provincial supervisor. 1973, c. 24, s. 8.

Inspection
of books of
approved
corporations

(3) A provincial supervisor may inspect the books of account and other records of an approved corporation that pertain to charitable institutions. R.S.O. 1970, c. 62, s. 8 (2).

Suspension
and revoca-
tion of
approvals

11.—(1) Subject to this section, any approval given under this Act may be suspended or revoked by the Minister if,

(a) any director, officer or servant of the approved corporation has contravened or knowingly permitted any person under his control and direction to contravene any provision of this Act or the regulations and such contravention occurred through lack of competence or with intent to evade the requirements of such provision; or

(b) the approval would be refused if application were being made for it in the first instance. 1971, c. 50, s. 16 (3), *part*; 1973, c. 24, s. 9 (1).

Hearing

(2) Subject to subsection (6) and except where an approval is suspended or revoked with the consent of the approved corporation, before suspending, or revoking, an approval given under this Act, the Minister shall cause a hearing as to whether the approval should be suspended or revoked to be held by a person, other than a person in the employment of the Ministry of Community and Social Services, appointed by the Minister. 1971, c. 50, s. 16 (3), *part*; 1973, c. 24, s. 9 (2).

(3) Sections 4 to 16 and 21 to 24 of the *Statutory Powers Procedure Act* apply with respect to a hearing under this section. Application of R.S.O. 1980, c. 484

(4) The person conducting a hearing under this section shall, at the conclusion of the hearing, make a report to the Minister setting out his findings of fact and any information or knowledge used by him in making his recommendations, any conclusions of law he has arrived at relevant to his recommendations, and his recommendations as to the suspension or revocation of the approval, and shall send a copy of his report to the persons affected. 1971, c. 50, s. 16 (3), *part*. Report to Minister

(5) After considering a report made to him under this section, the Minister may thereupon suspend or revoke the approval to which the report relates and shall give notice of his decision to the persons affected, specifying the reasons therefor. 1971, c. 50, s. 16 (3), *part*; 1973, c. 24, s. 9 (3). Decision of Minister

(6) Notwithstanding anything in this section, the Minister, by notice to the persons affected and without a hearing, may provisionally suspend an approval given under this Act where the continuation of operations in accordance with the approval is, in the Minister's opinion, an immediate threat to the public interest and the Minister so states in such notice giving his reasons therefor, and thereafter the Minister shall cause a hearing to be held and the provisions of subsections (2) to (5) apply. 1971, c. 50, s. 16 (3), *part*. Provisional suspension of approval

12. The Lieutenant Governor in Council may make regulations, Regulations

- (a) exempting designated approved corporations or charitable institutions from specified provisions of the Act or the regulations;
- (b) prescribing classes of approved charitable institutions, governing the admission of persons to and their discharge from approved charitable institutions, prescribing the conditions of eligibility and procedures for such admission and discharge, and specifying classes of persons that may be cared for in approved charitable institutions or any class thereof;
- (c) providing for the making of investigations of the financial circumstances of residents in or applicants for admission to approved charitable institutions or any class thereof for the purpose of determining eligibility or continuing eligibility for admission to the institutions;
- (d) prescribing procedures for selecting and evaluating the site for a charitable institution to be erected or

acquired by an approved corporation and for conducting a survey of the community and a review of population requirements and the contents of the report to be submitted to the Minister under section 4;

- (e) prescribing procedures for the development and preparation of plans for sites and buildings and the information to be contained in such plans;
- (f) prescribing the location, site, size, design and construction of buildings used or to be acquired, erected or altered for use as approved charitable institutions or any class thereof and the facilities and equipment to be provided therein;
- (g) prescribing rules governing the establishment, maintenance and operation of charitable institutions and the conduct of the persons cared for therein and the staffs thereof;
- (h) prescribing staff requirements and governing the appointment, qualifications and the powers and duties of administrators and members of the staffs of approved charitable institutions or any class thereof and requiring in-service training programs to be provided for members of staffs of any such institutions or class thereof;
- (i) requiring the bonding of administrators and other employees or classes of employees of approved charitable institutions or any class thereof in such form and terms and with such collateral security as are prescribed and providing for the forfeiture of the bonds and the disposition of the proceeds thereof;
- (j) prescribing and governing the social services, medical, paramedical and nursing care and other services, and the items, amenities and recreational opportunities that shall be provided for residents in approved charitable institutions or classes of approved charitable institutions, prescribing classes or levels of such care, services, items, amenities and recreational opportunities in accordance with the needs of the residents and providing for the assessment and classification of the residents for the purpose of determining the class or level of care, services and items required by them;
- (k) prescribing the percentage of bed capacity to be maintained and used in approved charitable institu-

tions for any prescribed class or level of care and services to be provided in the charitable institution or class thereof, as the case may be;

- (l) prescribing the maximum amounts that may be charged residents in approved charitable institutions for any prescribed class or level of care, services, items and amenities provided in the charitable institutions;
- (m) providing for the terms and conditions of trust upon which an approved corporation may receive and hold property of a resident in an approved charitable institution maintained and operated by the corporation;
- (n) governing applications by approved corporations for payments under this Act and prescribing the method, time and manner of payment;
- (o) prescribing the manner of computing the cost to approved corporations, and prescribing classes of payments and a greater amount per bed in determining the amount of a payment or any class or classes of payment for the purposes of sections 6 and 7;
- (p) for the purposes of section 8, prescribing the manner of computing the cost of care and maintenance in a charitable institution other than a hostel, and the cost of residential services provided in other than an approved charitable institution, prescribing classes of payments and a higher percentage in respect of the cost for the purpose of determining the amount of a payment or a class or classes of payment, and prescribing the maximum amounts of the cost to which Ontario may contribute;
- (q) defining "extended care services" and "nursing care", and prescribing facilities, items and services to be included in either of such definitions and prescribing standards of eligibility in addition to those mentioned in this Act for extended care services of residents in approved charitable institutions or any class thereof and the manner of determining such eligibility;
- (r) prescribing the manner of applying for extended care services and providing for the termination, reinstatement or extension of such services for residents in approved charitable institutions or any class thereof;

- (s) providing for the authorization by the Director of approved charitable institutions or any class thereof to provide extended care services and prescribing the circumstances and conditions under which such authorizations may be given, including the facilities, equipment, services and programs to be provided in such charitable institutions;
- (t) prescribing rules for determining the amounts to be contributed by any resident or any class of resident in an approved charitable institution towards the cost of his care and maintenance therein;
- (u) for the purposes of section 8, prescribing the terms and conditions upon which the Director may approve the provision of residential services by or on behalf of an approved corporation in other than an approved charitable institution, the classes or levels of such services, the services, items and amenities to be provided in connection therewith, and the maximum amounts that may be charged persons in receipt of the residential services;
- (v) prescribing the records and accounts to be kept by approved corporations and charitable institutions, the claims and returns to be made to the Minister by approved corporations with respect to charitable institutions and the method, time and manner in which such claims and returns shall be made and providing penalties for late claims or returns;
- (w) providing for the recovery by an approved corporation or the Province of Ontario from a person or his estate of any amount paid by the Corporation or by the Province of Ontario to the corporation for the cost of the care and maintenance of the person in a charitable institution and prescribing the circumstances and the manner in which any such recovery may be made;
- (x) prescribing additional powers and duties of provincial supervisors;
- (y) prescribing forms and providing for their use. R.S.O. 1970, c. 62, s. 10; 1971, c. 50, s. 16 (4); 1972, c. 61, s. 9; 1973, c. 24, s. 10.

CHAPTER 65

Charities Accounting Act

1.—(1) Where under the terms of a will or an instrument in writing real or personal property or any right or interest therein or proceeds therefrom are given to or vested in a person as executor or trustee for a religious, educational, charitable or public purpose, or are to be applied by him to or for any such purpose, such person shall give written notice thereof, personally or by registered letter, to the Public Trustee and to the person, if any, designated in the will or instrument as the beneficiary under the bequest or gift or as the person to receive the bequest or gift from the executor or trustee. R.S.O. 1970, c. 63, s. 1 (1), *revised*.

Notice of
bequest or
donation to
be given to
Public
Trustee

(2) Any corporation incorporated for a religious, educational, charitable or public purpose shall be deemed to be a trustee within the meaning of this Act, its instrument of incorporation shall be deemed to be an instrument in writing within the meaning of this Act, and any real or personal property acquired by it shall be deemed to be property within the meaning of this Act.

Charitable
corporations,
etc., brought
within Act

(3) The notice shall be given, in the case of an instrument other than a will, within one month after it has been executed, and, in the case of a will, within the same period after the death of the testator.

Time for
giving
notice

(4) No notice under this section is necessary where the trust was completely executed before the 31st day of March, 1914, but the remaining sections of this Act nevertheless apply to every such trust.

Where
notice not
necessary

(5) The notice shall state the nature of the property coming into the possession or under the control of the executor or trustee and the notice to the Public Trustee shall be accompanied by an attested or notarial copy of the will or other instrument. R.S.O. 1970, c. 63, s. 1 (2-5).

Contents of
notice

2.—(1) Every such executor or trustee shall, from time to time upon request, furnish to the Public Trustee particulars in writing of,

Executor or
trustee to
furnish
information
to Public
Trustee

- (a) the condition, disposition or such other particulars as are required of the property devised, bequeathed or given or which has come into the hands of the executor or trustee;
- (b) the names and addresses of the executors or trustees; and
- (c) the administration or management of the estate or trust.

Corporation
to furnish
information
to Public
Trustee

(2) Where such executor or trustee, either directly or indirectly through any person on his behalf or through any corporation or through a series or combination of such persons, corporations or persons and corporations, controls a corporation or the election of the directors thereof through the holding of a majority of the shares thereof or a sufficient number of shares or any class of shares thereof to enable him to exercise such control in fact, or in any other manner whatsoever, the corporation, the officers and manager of such corporation or any of them shall from time to time furnish to the Public Trustee in writing such information concerning the corporation, its operation, assets, profits or losses, and finances as the Public Trustee requests.

Application
to Supreme
Court where
corporation
involved

(3) A judge of the Supreme Court, upon the application of the Public Trustee and upon notice to the corporation concerned and to such other person or persons as a judge of the Supreme Court directs, shall inquire into and determine any question relating to the failure to furnish information to the Public Trustee pursuant to subsection (2), and shall inquire into and determine the control of the election of directors or the ownership, control or management of, or any matter affecting, any corporation mentioned in subsection (2), or its operation, assets, profits or losses, and finances and may make such order as is considered necessary or proper to,

- (a) compel the giving of information to the Public Trustee;
- (b) determine who controls the corporation;
- (c) determine who controls the election of the directors of the corporation;
- (d) protect or preserve the assets or financial stability of the corporation and the assets held by such executor or trustee relating to the corporation; and

- (e) ensure the proper operation and management of the corporation and its assets. R.S.O. 1970, c. 63, s. 2.

3. Whenever required so to do by the Public Trustee, ^{Auditing accounts as to charitable legacies or grants} an executor or trustee shall submit the accounts of his dealings with the property coming into his hands or under his control under the terms of the bequest or gift, to be passed and examined and audited by the judge of the surrogate court of the county or district in which he resides or in which probate was granted. R.S.O. 1970, c. 63, s. 3.

4. If any such executor or trustee,

- (a) refuses or neglects to comply with any of the provisions of section 1, 2 or 3, or with any of the regulations made under this Act; ^{Application to Supreme Court where executor or trustee in default}
- (b) is found to have misapplied or misappropriated any property or fund coming into his hands;
- (c) has made any improper or unauthorized investment of any moneys forming part of the proceeds of any such property or fund; or
- (d) is not applying any property, fund or moneys in the manner directed by the will or instrument,

a judge of the Supreme Court upon the application of the Public Trustee made by way of originating notice according to the practice of the court, may make an order,

- (e) directing the executor or trustee to do forthwith or within the time stated in the order anything that he has refused or neglected to do in compliance with section 1, 2 or 3, or with the regulations made under this Act;
- (f) requiring the executor or trustee to pay into court any funds in his hands and to assign and transfer to the Accountant of the Supreme Court, or to a new trustee appointed under clause (g), any property or securities in his hands or under his control;
- (g) removing such executor or trustee and appointing some other person to act in his stead;
- (h) directing the issue of an attachment against the executor or trustee to the amount of any property or funds as to which he is in default;

- (i) fixing the costs of the application and directing how and by whom they shall be payable;
- (j) giving such directions as to the future investment, disposition and application of any such property, funds or moneys as he considers just and best calculated to carry out the intentions of the testator or donor;
- (k) imposing a penalty by way of fine or imprisonment not exceeding twelve months upon the executor or trustee for any such default or misconduct or for disobedience to any order made under this section;
- (l) appointing an executor or trustee in place of an executor or trustee who has died, or has ceased to act, or has been removed, or has gone out of Ontario, notwithstanding that the will or other instrument creating the trust confers the power to make such an appointment upon another executor or trustee or upon any other person. R.S.O. 1970, c. 63, s. 4.

Regulations

5.—(1) The Lieutenant Governor in Council may make regulations,

- (a) prescribing forms of notices and returns to be made under this Act;
- (b) respecting the practice and procedure upon passing the accounts of an executor or trustee under this Act and the tariff of fees and costs to be applicable thereto;
- (c) requiring returns to be made by any such executor or trustee to any ministry of the Government and the form of such returns;
- (d) regulating the practice and procedure upon applications under section 4. R.S.O. 1970, c. 63, s. 5 (1); 1971, c. 50, s. 17 (1); 1972, c. 1, s. 2.

Practice

(2) Except as otherwise provided by the regulations, the practice and procedure of the Supreme Court and of the surrogate courts, respectively, apply to proceedings under this Act.

When
surrogate
registrar
to transmit
copy of
will to
Public
Trustee

(3) Where an application is made for letters probate of a will or other testamentary instrument whereby real or personal property or any right or interest therein or proceeds therefrom are given to or vested in a person as executor or

administrator for a religious, educational, charitable or public purpose or are to be applied by him to or for any such purpose, the surrogate registrar shall transmit a copy of the will or other instrument to the Public Trustee.

(4) Where an action or other proceeding is brought to set aside, vary or construe any such will or other instrument, written notice thereof shall be served upon the Public Trustee, and if no one appears as representing the religious, educational, charitable or public institution, or if there is no named beneficiary, or a discretion is given to the executor or trustee as to a choice of beneficiaries, the Public Trustee may intervene in the action or other proceeding and has the right to object or consent and to be heard upon any argument as a party to the action or other proceeding. R.S.O. 1970, c. 63, s. 5 (2-4).

Notice of
action to
set aside
will to be
served on
Public Trustee

6.—(1) Any person may complain as to the manner in which a person or organization has solicited or procured funds by way of contribution or gift from the public for any purpose, or as to the manner in which any such funds have been dealt with or disposed of.

Collection
of funds
from the
public,
right of
complaint

(2) Every such complaint shall be in writing and delivered by the complainant to a judge of any county or district court.

Form of
complaint

(3) Wherever the judge is of opinion that the public interest can be served by an investigation of the matter complained of, he may make an order directing the Public Trustee to make such investigation as the Public Trustee considers proper in the circumstances. R.S.O. 1970, c. 63, s. 6 (1-3).

Order for
investiga-
tion

(4) In making an investigation directed under subsection (3), the Public Trustee has and may exercise any of the powers conferred on him by this Act and any of the powers of a commission under Part II of the *Public Inquiries Act*, which Part applies to the investigation as if it were an inquiry under that Act. 1971, c. 50, s. 17 (2).

Powers of
Public
Trustee

R.S.O. 1980,
c. 411

(5) The cost of any such investigation, when approved by the Attorney General, forms part of the expenses of the administration of justice in Ontario. R.S.O. 1970, c. 63, s. 6 (5); 1972, c. 1, s. 9 (7).

Cost of
investiga-
tion

(6) As soon as the Public Trustee has completed his investigation, he shall report in writing thereon to the Attorney General and to the county court judge who ordered the investigation. R.S.O. 1970, c. 63, s. 6 (6); 1972, c. 1, s. 9 (7).

Report of
investiga-
tion

Order
for audit

R.S.O. 1980,
c. 512

(7) Upon receipt of the report, the county court judge may order a passing of the accounts in question, in which case section 23 of the *Trustee Act* applies, and the judge may make such order as to the costs of the Public Trustee thereon as he considers proper.

Where
section not
to apply

(8) Nothing in this section applies to any religious or fraternal organization or to any person who solicited or procured any funds of any religious or fraternal organization. R.S.O. 1970, c. 63, s. 6 (7, 8).

Application
of Act

7. This Act applies notwithstanding any provision in any will or other instrument excluding its application or giving to an executor or trustee any discretion as to the application of property, funds or the proceeds thereof to religious, educational, charitable or public purposes. R.S.O. 1970, c. 63, s. 7.

Other rights
and remedies
not affected

8. This Act does not apply to or affect or in any way interfere with any right or remedy that any person may have under any other Act or in equity or at common law or otherwise. R.S.O. 1970, c. 63, s. 8.

CHAPTER 66

Child Welfare Act

INTERPRETATION

1.—(1) In this Act,

Interpre-
tation

- (a) “approved estimate” means an estimate of net expenditures of a society finally approved under sections 8 to 12;
- (b) “best interests of the child” means the best interests of the child in the circumstances having regard, in addition to all other relevant considerations, to
 - (i) the mental, emotional and physical needs of the child and the appropriate care or treatment, or both, to meet such needs,
 - (ii) the child’s opportunity to enjoy a parent-child relationship and to be a wanted and needed member within a family structure,
 - (iii) the child’s mental, emotional and physical stages of development,
 - (iv) the effect upon the child of any disruption of the child’s sense of continuity,
 - (v) the merits of any plan proposed by the agency that would be caring for the child, compared with the merits of the child returning to or remaining with his or her parent,
 - (vi) the views and preferences of the child, where such views and preferences can reasonably be ascertained,
 - (vii) the effect upon the child of any delay in the final disposition in the proceedings,
 - (viii) any risk to the child of returning the child to or allowing the child to remain in the care of his or her parent;
- (c) “court”, unless otherwise indicated, means a provincial court (family division) or the Unified Family Court;

- (d) "Director" means an employee of the Ministry appointed by the Minister as a director for all or any of the purposes of this Act;
- (e) "judge", unless otherwise indicated, means a provincial judge presiding in a provincial court (family division) or a judge presiding in the Unified Family Court;
- (f) "local director" means the local director of a society appointed under this Act;
- (g) "Minister" means the Minister of Community and Social Services;
- (h) "Ministry" means the Ministry of Community and Social Services;
- (i) "municipality" means the corporation of a county, city, or separated town or a district, metropolitan or regional municipality, but does not include a city or separated town in a district, metropolitan or regional municipality, and in a territorial district means the corporation of a city, town, village or improvement district;
- (j) "prescribed" means prescribed by the regulations;
- (k) "regulations" means the regulations made under this Act;
- (l) "society" means a children's aid society approved by the Lieutenant Governor in Council under this Act. 1978, c. 85, s. 1; 1979, c. 98, s. 1 (1).

Determination
of best
interests of
child

(2) In determining the best interests of the child for the purpose of this Act, the court or a person, as the case may be, shall have regard to those considerations in subclauses (1) (b) (i) to (viii) that are, in the opinion of the court, or the person, relevant to the circumstances of the case. 1979, c. 98, s. 1 (2).

PART I

OFFICERS, SOCIETIES

Appointment
of Director

2.—(1) The Minister may appoint one or more persons to act as a Director.

Duties of
Director

(2) A Director,

- (a) shall advise and supervise societies;
- (b) shall inspect or direct and supervise the inspection of the operation and records of societies;

- (c) shall exercise the powers and duties of a society in any area in which no society is functioning;
- (d) shall inspect or direct and supervise the inspection of any place in which a child in the care of a society is placed;
- (e) shall prepare and submit an annual report to the Minister; ✓
- (f) shall keep books of account of all moneys received and disbursed by the Director; ✓
- (g) may designate in writing a place or class of places as a place of safety for the purposes of this Act;
- (h) shall ensure that societies are providing the standard of services and following the procedures and practices prescribed under subsection 6 (3); ✓
- (i) shall perform such other duties as are prescribed by this Act or the regulations or by the Lieutenant Governor in Council.

(3) Where a Director is absent or there is a vacancy in the office of a Director, the powers and duties of the Director shall be exercised and performed by such employee of the Ministry as the Minister designates. 1978, c. 85, s. 2. Acting Director

3.—(1) The Minister may by order appoint a judge of the county or district court to make an investigation into any matter, Investigation ✓

(a) relating to any person in the care of a society; or

(b) for the due administration of this Act,

and the person appointed shall report the result of the investigation to the Minister.

(2) For the purposes of an investigation under subsection (1), the judge has the powers of a commission under Part II of the Public Inquiries Act, which Part applies to the investigation as if it were an inquiry under that Act. 1978, c. 85, s. 3. Powers on investigation
R S O 1980.
c 411

4.—(1) Every society shall appoint a local director who shall be responsible to the board of directors of the society for the administration and enforcement of this Act and the Appointment of local directors

regulations in the area in which the society has jurisdiction, who shall co-operate with a Director to this end and who shall carry out such other duties as are required by the constitution, by-laws and directions of the society.

Powers
of local
directors,
etc.

R.S.O. 1980,
c. 129

R.S.O. 1980,
c. 406

(2) Every local director and every person designated by the board of directors of a society has for the purposes of this Act the powers of a school attendance counsellor under the *Education Act* and a police officer, and any one of them shall be deemed to be an officer within the meaning of section 10 of the *Public Authorities Protection Act*, and that section and the other provisions of that Act apply to them in the same manner and to the same extent as they do to the officers mentioned in that section. 1978, c. 85, s. 4.

Police
assistance

5. A Director or a local director or any person acting under the authority of either of them may call for aid, in the performance of the duties of the Director, local director or the person, as the case may be, a member of the police force responsible for policing the area in which the aid is required. 1978, c. 85, s. 5.

Establish-
ment of
societies
R.S.O. 1980,
c. 95

6.—(1) Every society shall be incorporated under the *Corporations Act* or a predecessor thereof as a corporation without share capital and shall be approved by the Lieutenant Governor in Council.

Purposes

(2) Every society shall be operated for the purposes of,

- (a) investigating allegations or evidence that children may be in need of protection;
- (b) protecting children where necessary;
- (c) providing guidance, counselling and other services to families for protecting children or for the prevention of circumstances requiring the protection of children;
- (d) providing care for children assigned or committed to its care under this or any other Act;
- (e) supervising children assigned to its supervision under this or any other Act;
- (f) placing children for adoption;
- (g) assisting the parents of children born or likely to be born outside of marriage and their children born outside of marriage; and
- (h) any other duties given to it by this or any other Act.

(3) Every society shall,

Standard
of services

(a) provide the standard of services relating to the purposes set out in subsection 6 (2); and

(b) follow the procedures and practices,

that shall be prescribed by the Minister.

(4) The by-laws of every society shall contain such provisions as the regulations prescribe, and a certified copy of the by-laws and any amendments thereto shall be filed with a Director forthwith after they are made, and no such by-laws or amendments shall come into operation until they have been approved by the Minister. 1978, c. 85, s. 6.

By-laws

7.—(1) A society shall be governed by a board of directors composed of such municipal representatives as are determined under subsections (2) to (6) and the president, one or more vice-presidents, the secretary, the treasurer and such other officers and members as are determined, elected in such manner and for such period as the by-laws of the society provide.

Board of
directors

(2) Where a society has jurisdiction in but not outside a city, separated town or a district, regional or metropolitan municipality, the municipal representatives shall be not fewer than four appointed from among themselves by the council of the city, separated town or the district, regional or metropolitan municipality.

Municipal
repre-
sentatives

(3) Where a society has jurisdiction in a county but not in a city or separated town, the municipal representatives shall be not fewer than four appointed from among themselves by the council of the county.

Idem

(4) Where a society has jurisdiction in an area that includes a county or part of a county outside a city, separated town or a district, regional or metropolitan municipality,

Idem

(a) one municipal representative shall be appointed from among themselves by the council of each county, city, separated town and the district, regional or metropolitan municipality in the jurisdiction; and

(b) the council of the county, city, separated town or the district, regional or metropolitan municipality having the largest population as determined by the last revised assessment rolls shall appoint from among themselves such other municipal representa-

tives as are required, so that the total number of municipal representatives on the board of directors is not fewer than four.

Idem

(5) In subsections (2) to (4), a reference to a city or separated town does not include a city or separated town in a district, regional or metropolitan municipality.

Idem

(6) Where a society has jurisdiction in an area that includes a district or part of a district outside a city or a district, regional or metropolitan municipality, the municipal representatives shall be appointed in the manner determined under subsection (4), except that the district welfare administration board or the District Child Welfare Budget Board referred to in section 10, as the case may be, shall appoint the representatives required by subsection (4) to be appointed by the council of a county.

Executive
committee

(7) The board of directors of a society shall pass a by-law providing for the election from among their number of an executive committee of nine members, consisting of the president, the treasurer, four municipal representatives and three other directors, and delegating to the executive committee any powers of the board of directors, subject to the restrictions, if any, contained in the by-law or imposed from time to time by the board.

Quorum

(8) A majority of the members of an executive committee constitutes a quorum. 1978, c. 85, s. 7.

Estimate
of expendi-
tures

8.—(1) Every society shall before a date to be fixed each year by a Director, which date shall be no later than the last day of February in the year next following, prepare and file with the Director and, subject to subsection (2) and section 10, with each municipality in the area in which the society has jurisdiction, an estimate of its net expenditures, determined in accordance with the regulations, for operations for the year next following.

Minister
may
determine
estimate

(2) Where a society has not filed an estimate in accordance with subsection (1) before the date prescribed therefor by the Director under that subsection, the Minister may at any time thereafter determine the amount of the estimate and cause the estimate to be filed with the society and, subject to subsection 10 (3), with each municipality in the area in which the society has jurisdiction.

(3) An estimate filed under subsection (2) shall, subject to subsections 11 (1) and (2), be deemed to be approved by the Minister under subsection 9 (1), sixty days after it is filed.

Estimate
deemed
to be
approved

(4) The council of every municipality with whom an estimate is filed in accordance with subsection (1) shall, subject to section 10 and subsection 11 (1), grant its approval to the estimate within sixty days from the date fixed by the Director.

Approval of
estimate by
council of
municipality

(5) A municipality that has not, within the period of time fixed under subsection (4),

Estimate
deemed
to be
approved

(a) granted its approval to the estimate pursuant to subsection (4); or

(b) referred the estimate to a child welfare review committee under section 11,

shall, at the expiration of that period, be deemed to have granted its approval under subsection (4).

(6) Where a society has jurisdiction in more than one municipality, the portion of the estimate of net expenditures that is referable to each municipality shall, subject to subsection 12 (10), be determined in accordance with the regulations.

Proportion
referable
to each
municipality

(7) Subsection (6) does not apply where a district welfare administration board has been established under the *District Welfare Administration Boards Act*. 1978, c. 85, s. 8.

Exception
R.S.O. 1980,
c. 122

9.—(1) After an estimate has been filed with a Director pursuant to subsection 8 (1) and approved by the council of each municipality with whom it was filed, pursuant to subsection 8 (4), the Minister may approve the estimate as filed, or, subject to subsection (2) and subsection 11 (2), vary the amount of the estimate and approve the estimate as so varied.

Approval by
Minister

(2) Where the Minister intends to vary the amount of an estimate and to approve the estimate as so varied pursuant to subsection (1), the Minister shall, at least thirty days prior to approving the estimate, cause notice to be given of the Minister's intention to approve or to vary, as the case may be, to the society and to the council of each municipality in

Notice by
Minister

the area in which the society has jurisdiction or to the District Child Welfare Budget Board, as the case may be. 1978, c. 85, s. 9.

Interpre-
tation

10.—(1) In this section,

R.S.O. 1980,
c. 122

(a) “district” means a district as defined in the *District Welfare Administration Boards Act*;

(b) “municipality” means a municipality as defined in the *District Welfare Administration Boards Act*.

District
Child
Welfare
Budget
Board

(2) The councils of every municipality in a district in which a district welfare administration board has not been established shall, on or before the 1st day of October in each year, jointly appoint five persons to be a board known as the District Child Welfare Budget Board.

Approval of
estimates

(3) The estimate of net expenditures of a society in a district shall be approved by the District Child Welfare Budget Board in lieu of the approval by the municipal councils otherwise required by section 8. 1978, c. 85, s. 10.

Reference
to child
welfare
review
committee

11.—(1) Where the council of a municipality or a District Child Welfare Budget Board does not agree with the amount of the estimate submitted to it by a society pursuant to subsection 8 (1) or with the portion of the estimate that is referable to the municipality, it may, on or before the expiration of the time fixed under subsection 8 (4) for the approval of the estimate by the municipality or the District Child Welfare Budget Board, as the case may be, request the Minister to refer the matter to a child welfare review committee.

Idem

(2) Where a society, the council of a municipality or a District Child Welfare Budget Board, as the case may be, does not agree with the amount of the estimate,

(a) that has been filed pursuant to subsection 8 (2); or

(b) that the Minister intends to approve as varied pursuant to subsection 9 (1),

any one of them may,

- (c) in the case of an estimate referred to in clause (a), before the expiration of sixty days after the filing of the estimate; and
- (d) in the case of an estimate referred to in clause (b), after receiving notice of the Minister's intention pursuant to subsection 9 (2) and before the Minister's approval is given under subsection 9 (1),

request the Minister to refer the matter to a child welfare review committee.

(3) The provisions of subsection (2) apply with necessary ^{Idem} modifications to the council of a municipality or a District Child Welfare Budget Board that does not agree with the portion of the estimate referable to the municipality, where the estimate has been filed by the Minister pursuant to subsection 8 (2). 1978, c. 85, s. 11.

12.—(1) For the purposes of this section and section 11, ^{Composition of child welfare review committee} a child welfare review committee shall consist of,

- (a) one member appointed by the Minister, who shall be chairman;
- (b) one member appointed by the Ontario Association of Children's Aid Societies; and
- (c) one member appointed by the council of the municipality or the District Child Welfare Budget Board, as the case may be.

(2) Where a society has jurisdiction in more than one ^{Joint appointment to committee} municipality and there is no District Child Welfare Budget Board, the member to be appointed under clause (1) (c) shall be appointed jointly by those municipalities.

(3) Where the Minister receives a request under sub- ^{Appointment of members} section 11 (1) or (2), the Minister shall forthwith appoint the member referred to in clause (1) (a) and cause notice to be given to the Ontario Association of Children's Aid Societies and the council of the municipality or the District Child Welfare Budget Board, as the case may be, to appoint, within ten days of the notice having been given, the members referred to in clauses (1) (b) and (c), respectively, and to inform the Minister forthwith of the names of the members appointed.

Notice

(4) The Minister shall, after being informed under subsection (3), forthwith cause notice of the names of the members of the child welfare review committee to be given to the parties concerned.

Failure to
appoint
member

(5) Where a party who receives a notice to appoint a member to the committee under subsection (3) fails to appoint a member within the time prescribed, the Minister shall, in the place of the party who failed to make the appointment, forthwith appoint the member to the committee.

Procedure

(6) A child welfare review committee shall be convened by the chairman thereof within ten days after all the members have been appointed and the committee shall determine its own procedures.

Evidence

(7) A child welfare review committee may receive such written or oral evidence from a Director, the society, the municipality or District Child Welfare Budget Board, as the case may be, or any other person as it in its discretion considers proper whether admissible in a court of law or not and may require the Director to present evidence and make submissions.

Idem

(8) A Director shall, when required by a child welfare review committee, present evidence and make submissions before the committee.

Findings of
committee

(9) A child welfare review committee shall review the evidence submitted to it and obtain any additional evidence or material it considers necessary and shall report its findings and make recommendations to the Minister within thirty days from the date that the committee first convenes and the findings and recommendations of the committee shall be made available to the parties concerned.

Decision of
Minister

(10) After reviewing the findings and recommendations of a child welfare review committee, the Minister may approve the estimate filed under subsection 8 (1) or (2), vary the amount of the estimate and approve the estimate as so varied or determine the apportionment referred to in subsection 8 (6), as the case may be, and the decision of the Minister is final.

Notice

(11) Notice of the Minister's decision shall be given to the parties concerned within thirty days after the Minister receives the report and recommendations of a child welfare review committee. 1978, c. 85, s. 12.

13.—(1) There shall be paid out of the moneys appropriated therefor by the Legislature to each society an amount, determined in accordance with the regulations, of the approved estimate of the society. Payments by Ontario

(2) Every municipality shall pay to the society having jurisdiction in the municipality an amount, determined in accordance with the regulations, of the portion determined in accordance with subsection 8 (6), of the approved estimate of the society that is referable to the municipality. Payments by municipality

(3) Any amount payable to a society under this section in respect of an approved estimate, including advances before such estimate is approved, may be paid at such times and in such manner as are determined by the Minister. 1978, c. 85, s. 13. Manner of payment

14.—(1) Where the erection, purchase or other acquisition of a building by a municipality or by a society for the occupation in whole or in part by the society for use for a purpose other than to provide facilities and services to meet such special needs of children as are prescribed for the purposes of section 16 has been approved by the Minister, the Minister may, out of the moneys appropriated therefor by the Legislature, direct payment to the municipality or to the society of an amount, determined in accordance with the regulations, of the cost to the municipality or society of the building determined in accordance with the regulations. Capital payments

(2) Where the Minister has approved the erection of a new building, an addition to an existing building, the purchase or other acquisition of an existing building, the structural alteration or the renovation or the furnishing and equipping of a building by a society for the provision of facilities and services to meet such special needs of children as are prescribed for the purposes of section 16, the Minister may direct payment to the society out of moneys appropriated therefor by the Legislature of an amount, determined in accordance with the regulations, towards the cost determined in accordance with the regulations of the new building, addition, acquisition, structural alteration, renovation or furnishing and equipping, as the case may be, that is applicable to the facilities and services. 1978, c. 85, s. 14. Idem

15.—(1) The council of any municipality shall pass by-laws for the levying of such amounts as are necessary for the purpose of meeting any liability imposed on the municipality under this Act and may pass by-laws for the purpose of affording to a society such other assistance as the council considers advisable. Power to make levies

When
society a
local board
R.S.O. 1980,
c. 348

(2) A society shall be deemed to be a local board of each municipality in which it has jurisdiction for the purposes of the *Ontario Municipal Employees Retirement System Act* and not for any other purpose. 1978, c. 85, s. 15.

Special
homes and
services

16. Where two or more societies have concurrent or contiguous jurisdictions they may with the approval of the Minister enter into an agreement establishing a joint committee for the purpose of providing facilities and services for the joint use of the societies to meet such special needs of children as are prescribed by the regulations, and sections 8 to 14 apply to the joint committee, for the purposes for which it was established, in the same manner as if the joint committee were a society. 1978, c. 85, s. 16.

Temporary
board

17. Where, in the opinion of the Lieutenant Governor in Council, a society is not able to perform its duties, the Lieutenant Governor in Council may appoint a board of directors who shall be the board of directors of the society for such period as the Lieutenant Governor in Council considers advisable. 1978, c. 85, s. 17.

Dissolution
of societies

18. The Lieutenant Governor in Council may, at any time upon the recommendation of the Minister, dissolve a society on such date as the order provides, and upon the dissolution of a society its property vests in the Crown to be held and disposed of in such manner as the Lieutenant Governor in Council determines. 1978, c. 85, s. 18.

PART II

PROTECTION AND CARE OF CHILDREN

Interpre-
tation

19.—(1) In this Part and Part IV,

- (a) "child" means a person actually or apparently under sixteen years of age, and in the case of a person who is the subject of an order under this Part, includes a person under eighteen years of age;
- (b) "child in need of protection" means,
 - (i) a child who is brought, with the consent of the person in whose charge the child is, before a court to be dealt with under this Part,
 - (ii) a child who is deserted by the person in whose charge the child is,
 - (iii) a child where the person, in whose charge the child is, cannot for any reason care properly

for the child, or where that person has died and there is no suitable person to care for the child,

- (iv) a child who is living in an unfit or improper place,
 - (v) a child found associating with an unfit or improper person,
 - (vi) a child found begging or receiving charity in a public place, ✓
 - (vii) a child where the person in whose charge the child is is unable to control the child,
 - (viii) a child who without sufficient cause is habitually absent from home or school,
 - (ix) a child where the person in whose charge the child is neglects or refuses to provide or obtain proper medical, surgical or other recognized remedial care or treatment necessary for the child's health or well-being, or refuses to permit such care or treatment to be supplied to the child when it is recommended by a legally qualified medical practitioner, or otherwise fails to protect the child adequately,
 - (x) a child whose emotional or mental development is endangered because of emotional rejection or deprivation of affection by the person in whose charge the child is, or
 - (xi) a child whose life, health or morals may be endangered by the conduct of the person in whose charge the child is;
- (c) "developmental handicap" means a condition of mental impairment present or occurring during a person's formative years that is associated with limitations in adaptive behaviour;
- (d) "foster home" means a home, other than the home of the child's parent, in which a child is placed for care and supervision but not for the purposes of adoption; -
- (e) "parent" means,
- (i) a guardian of a child appointed at law,
 - (ii) a mother of a child,

(iii) a person,

(A) who has within twelve months immediately prior to a child being detained in a place of safety under clause 21 (1) (a) or clause 22 (2) (a) or being brought before the court on an order to produce under clause 21 (1) (b) or clause 22 (2) (b), as the case may be,

1. acknowledged that he is the father of the child and has voluntarily provided for the child's care and support, or
2. demonstrated a settled intention to treat the child as a child of the person's family,

(B) who has made a written acknowledgment of the fact of his parentage to the society having or applying for the care or supervision of a child,

(C) who by order of a court of competent jurisdiction or by a written agreement is under a legal duty to provide for a child or has been granted custody of or access to a child,

(D) who has filed under section 12 of the *Children's Law Reform Act* a statutory declaration affirming that he is the father of a child, or

(E) who is in one of the circumstances referred to in paragraphs 1 to 6 of subsection 8 (1) of the *Children's Law Reform Act*, unless it is proven on a balance of probabilities that the person is not a parent of the child,

but does not include the Crown, a society or a foster parent of a child'

(f) "place of safety" means a receiving home, foster home, hospital, and such other place or class of places designated in writing by a Director, but does not include a training school under the *Training Schools Act*;

R.S.O. 1980,
c. 68

R.S.O. 1980,
c. 508

- (g) "receiving home" means an institution or home operated or supervised by a society for the temporary care of children. 1978, c. 85, s. 19 (1); 1979, c. 98, s. 2.

(2) Subject to subsection (3) and subsection 32 (3), an application in respect of a child under this Part shall be heard by a court in the county or district in which the child was taken into care. By whom cases are to be heard

(3) Where,

Transfer of proceedings

- (a) a child is taken into care, the court in the county or district in which the child is taken into care; or
- (b) a child is produced before the court under section 21 or 22, the court in the county or district in which the child is produced,

is satisfied that there is a preponderance of convenience in favour of holding the hearing in respect of the child in another county or district, the court may, at any time after an application is made in respect of the child under this Part and before hearing the application, transfer the proceedings to a court in any other county or district.

(4) For the purposes of an application under this Part, where the parent of a child is under eighteen years of age, the Official Guardian shall be the guardian *ad litem* of the parent with the duty of safeguarding the parent's interests before the court unless the court appoints any other person to be guardian *ad litem* for this purpose, and the court may make such order as to the costs of the guardian *ad litem* as the court considers just. 1978, c. 85, s. 19 (2-4). Guardian ad litem

20.—(1) A child may have legal representation at any stage in proceedings under this Part. Legal representation of child

(2) Where on an application under this Part a child does not have legal representation, the court shall, as soon as practicable in the proceedings, determine whether legal representation is desirable to protect the interests of the child and if at that or any later stage in the proceedings the court determines that legal representation is desirable the court shall direct that legal representation be provided for the child. Idem

(3) In determining whether legal representation is desirable to protect the interests of the child under subsection (2) where, Idem

- (a) the court is of the opinion that there is a difference in the views of the child and,
- (i) the views of the society, or

(ii) the views of a parent of the child,

and the society intends that the child be removed from the care of his or her parent or any other person or remain in the care of the society pursuant to an order under paragraph 2 or 3 of subsection 30 (1), as the case may be;

- (b) the child is in the care of the society and a parent is not present at any stage of the proceedings;
- (c) the child is in the care of the society and is alleged to be a child upon whom abuse, as defined in subsection 47 (1), has been inflicted; or
- (d) an order under section 33 excluding the child from the hearing is made or is likely to be made,

the court shall direct that legal representation be provided for the child unless, having regard to the views and preferences of the child where such views and preferences can reasonably be ascertained, the court is satisfied that the interests of the child are otherwise adequately protected. 1978, c. 85, s. 20.

How child
in need of
protection
brought
before
court

21.—(1) A police officer, a Director, a local director or a person authorized by a Director or the local director, who has reasonable and probable grounds to believe that any child is apparently in need of protection, may,

- (a) without warrant take the child to a place of safety and detain the child there until the matter can be brought before a court; or
- (b) apply to a court for an order requiring the person in whose charge the child is to produce the child before a court at the time and place named in the order.

Idem

(2) A police officer, a Director, a local director or a person authorized by a Director or by a local director, who has reasonable and probable grounds to believe that a child actually or apparently under sixteen years of age has departed or has been removed from the lawful care and custody of a society without the consent of the society, may without warrant take the child to a place of safety and detain the child there.

Right of
entry

(3) Where a person authorized under subsection (1) or (2) has reasonable and probable grounds to believe that a child referred to in subsection (1) or (2) is on any premises,

the person may without warrant enter the premises, if need be by force, and without warrant search for and remove the child from the premises.

(4) The provisions of the *Statutory Powers Procedure Act* do not apply to proceedings under this section. 1978, c. 85, s. 21. R.S.O. 1980, c. 484, not to apply

22.—(1) Where it appears to a justice of the peace, on information laid before the justice on oath, Warrant to search for child in need of protection

- (a) that there are reasonable and probable grounds to believe that a child is in need of protection; or
- (b) that a child actually or apparently under sixteen years of age has departed or has been removed from the lawful care and custody of a society without the consent of the society,

the justice may issue a warrant authorizing a police officer, a Director, a local director or a person authorized by a Director or the local director to search for the child and to take the child to and detain the child in a place of safety.

(2) Where, upon application to a court by any person, Idem the court is satisfied that there are reasonable and probable grounds to believe that a child is in need of protection and that the matter has been reported to a society and the local director of that society or person authorized by the local director has refused, or failed within a reasonable time, to apprehend the child or to apply to a court under section 21 or to apply for a warrant under subsection (1), the court may, after affording the society an opportunity to be heard,

- (a) make an order directing the local director of that society or person authorized by the local director, as the case may be, to search for the child and to take the child to and detain the child in a place of safety until the matter can be brought before a court; or
- (b) order a person in whose charge the child is to produce the child before a court at the time and place named in the order.

(3) A person authorized by a warrant issued under subsection (1) or an order made under clause (2) (a), may enter, if need be by force, any house, building or other place specified in the warrant or order and may search for and remove the child therefrom. Right of entry

(4) It is not necessary in an information or warrant under subsection (1) or an application or order under clause (2) (a) to describe the child by name. 1978, c. 85, s. 22. Name not necessary

Interpre-
tation .

23.—(1) In this section, “homemaker” means a person approved by the local director or a Director and who remains or is placed on a premises for the purpose of caring for a child.

Homemaker
may remain
on premises

(2) Where it appears to a person entering a premises pursuant to section 21 or 22 that a child, who in the opinion of that person is unable to look after and care for himself or herself, has been temporarily left on the premises without proper or competent care or supervision and that a person having charge of the child is not available or is unable to consent to the placement of a homemaker on the premises, the person entering the premises, instead of taking the child to a place of safety, may,

(a) remain on the premises; or

(b) arrange with a society for the placement of a homemaker on the premises,

for the purpose of caring for the child and thereafter, subject to subsections (6), (7) and (8), the provisions of sections 27 to 36 apply with necessary modifications to the child.

Idem

(3) A homemaker remaining or placed on a premises pursuant to subsection (2) may,

(a) enter and live on the premises; and

(b) carry on normal housekeeping activities on the premises,

in such manner and to such extent as is reasonably necessary to care for the child and may exercise reasonable control and discipline over the child.

Society or
Director may
provide goods
and services

(4) Where a homemaker remains or is placed on a premises pursuant to subsection (2), the society or a Director, as the case may be, may provide goods and services on the premises necessary to properly care for the child.

Protection
from
personal
liability

(5) A person who enters a premises pursuant to section 21 or 22 and who remains or is placed on a premises as a homemaker, pursuant to subsection (2) so long as the person is acting in good faith with reasonable care in the circumstances, is not liable for damages,

(a) for entering the premises;

(b) in connection with or arising out of the carrying on of normal housekeeping activities on the premises;

(c) for providing goods and services necessary to care for any child on the premises; or

- (d) for exercising reasonable control and discipline over any child on the premises.

(6) Where a homemaker remains or is placed on a premises pursuant to subsection (2), the society shall forthwith notify or make reasonable efforts to notify the parent or other person having charge of the child, immediately before the homemaker entered the premises, of the placement of the homemaker on the premises. Notice to parent

(7) Notwithstanding subsection 30 (1), where an application is made to a court under section 28, the court may order the homemaker to withdraw from the premises or may confirm the placement or entry of the homemaker on the premises for such period as the court considers necessary or until a parent or a person having custody of the child returns to care for the child but, subject to subsection (8), not to exceed thirty days. Order of court

(8) Where a parent or person having custody of the child has not returned before the end of the period set out in the order referred to in subsection (7), a court may, upon application therefor either before or after the expiration of the period of the order, extend the period for such further period of time as the court considers necessary or after a further hearing may make an order under subsection 30 (1). 1978, c. 85, s. 23. Extension of period of order

24. Where a child is in the care of an institution or home and no parent can be located, an officer of the institution or home after making reasonable efforts to locate a parent shall notify the society having jurisdiction in the area where the institution or home is located and the officer may, upon giving notice to the society, apply to a court that may determine that the child, notwithstanding clause 19 (1) (b), is a child in need of protection, and the provisions of sections 28 to 36 apply with necessary modifications to the child. 1978, c. 85, s. 24. Child in institution

25.—(1) Subject to the approval of the society, where a parent through circumstances of a temporary nature is unable to make adequate provision for his or her child, the parent may voluntarily place the child into the care and custody of a society with jurisdiction in the area where the parent resides and, where the society agrees to receive the child into care and custody, the society shall enter into a written agreement with the parent for such care and custody for a period, subject to subsection (2), of six months or less. Temporary care by agreement

Extension
of
agreement

(2) Where a Director approves, the parties to an agreement under subsection (1) may agree to extend the agreement for a further period or periods of time that together with the first period shall not exceed twelve months, and the parties may agree to vary any other term or condition of the agreement that is not prescribed by the regulations.

Limitation
on agreement

(3) Notwithstanding subsections (1) and (2), in no case shall an agreement under subsection (1) or any extension of the agreement be made that results in a child being in the care and custody of a society,

(a) as a ward of the society;

(b) pursuant to an agreement under this section; or

(c) pursuant to an order for adjournment made under subsection 28 (12) or any extension thereof,

or as a result of any combination of circumstances referred to in clauses (a), (b) and (c) for a continuous period of more than twenty-four months.

Special
needs
agreement

(4) Subject to the approval of the society or the Minister, as the case may be, when a parent is unable to provide the services required by his or her child because of the special needs of the child, the parent may voluntarily place the child into the care and custody or under the supervision of a society with jurisdiction in the area where the parent resides or of the Crown, and where the society or the Minister, as the case may be, agrees to receive the child into care and custody or under supervision, the society or the Minister shall enter into a written agreement with the parent,

(a) for the placement of the child into the care and custody or under the supervision of the Crown or the society, as the case may be; or

(b) for the provision by the Minister or the society, as the case may be, of the services required to meet the special needs of the child,

or both, for such period or periods of time, subject to subsection (12), as may be agreed upon between the parties.

Con-
siderations
before
entering
into an
agreement

(5) Before entering into an agreement under this section, the society or the Minister, as the case may be, shall consider what assistance to the child is possible while the child is in

the care of his or her parent or other person and before the society or the Minister assumes care and custody or supervision of the child under an agreement.

(6) No agreement with a parent under this section is invalid by reason only of the fact that the parent entering into it is under eighteen years of age. Agreement not invalid by reason of age

(7) The voluntary placement of a child with a society or the provision of services to a child by a society pursuant to an agreement with the society under subsection (4) shall not be made without the consent of a Director. Consent of Director

(8) Subject to subsection (9), no agreement under this section or extension thereof shall be entered into under this section in respect of a child twelve or more years of age without the written consent of the child and such consent, subject to subsection (13), shall not be withdrawn. Consent of child

(9) The consent required under subsection (8) is not required where the child is not capable of giving the consent because of a developmental handicap determined in accordance with the regulations. Idem

(10) No agreement under this section or any extension thereof shall extend beyond the eighteenth birthday of the person in respect of whom the agreement has been made. Age limit

(11) A person sixteen or more years of age and under eighteen years of age or the person's parent where the person is not capable of entering into an agreement because of a developmental handicap determined in accordance with the regulations, may, with the approval of a Director, enter into an agreement under this section with the Minister or a society with jurisdiction in the area where the person resides with respect to the provision of services to such person by the Minister or the society, as the case may be. Agreements with respect to persons over sixteen years of age

(12) Any party to an agreement made under this section at any time during the period of the agreement or any extension thereof, may terminate the agreement by giving at least twenty-one days notice in writing to the other party or parties, as the case may be, and the agreement shall terminate on the expiration of the period set out in the notice. Termination of agreement

(13) A child who is twelve or more years of age and in respect of whom an agreement under this section was made, at any time during the period of the agreement or any Idem

extension thereof, upon giving notice in writing to the society or to the Minister, as the case may be, may seek a review of the agreement by the society or the Minister and where,

- (a) the existing agreement is not confirmed; and
- (b) no further agreement is reached,

by the parties and the child within twenty-one days from the giving of the notice, the agreement shall be deemed to be terminated.

Return
of the
child

(14) Where an agreement under this section or an extension thereof,

- (a) is terminated under subsection (12), as soon as is practicable and within the time period set out in the notice given under that subsection;
- (b) is the subject of a review under subsection (13), upon the expiration of the twenty-one day period referred to in that subsection; or
- (c) expires pursuant to the terms of the agreement or pursuant to subsection (2), before or as soon as is practicable after the expiration thereof,

the society or the Minister, as the case may be, shall,

- (d) cause the child to be returned to the parent or other person in whose charge the child was immediately prior to the agreement being entered into, but where there is an outstanding order for custody of the child, cause the child to be placed with the person entitled to custody of the child under the order; or
- (e) cause the matter to be brought before a court to determine whether the child is or would be, if left in the charge of or returned to the parent or other person in whose charge the child was immediately prior to the agreement being entered into, as the case may be, a child in need of protection, and thereafter the provisions of sections 28 to 36 apply, with necessary modifications, to the child.

Application

(15) Subsection (14) does not apply to an agreement entered into under subsection (11). 1978, c. 85, s. 25.

Prohibition
on
placement

26. No person shall place a child into the care or custody of a society and no society shall receive a child into its care or custody except,

- (a) where the child is detained in a place of safety under subsection 21 (1) or clause 22 (1) (a) or subsection 22 (2);
- (b) where the care of the child is assumed under section 23;
- (c) pursuant to an order under this Part or any other Act respecting the care or custody of the child;
- (d) pursuant to an agreement under subsection 25 (1) or (4);
- (e) pursuant to the authority given under subsection 43 (2) or (3); or
- (f) pursuant to a consent given under subsection 69 (2).
1978, c. 85, s. 26.

27.—(1) As soon as is practicable and within five days of ^{Detention limited} detaining a child in a place of safety under subsection 21 (1) or clause 22 (1) (a) or subsection 22 (2), or of assuming the care of a child under section 23, as the case may be,

- (a) the matter shall be brought before a court to determine whether the child is a child in need of protection;
- (b) the child shall be returned to the parent or other person in whose charge the child was immediately prior to the child's apprehension or to the assumption of the child's care, as the case may be, but, where there is an outstanding order for custody of the child, the child shall be placed with the person entitled to custody of the child under the order; or
- (c) an agreement shall be entered into under section 25.

(2) A child who has been detained pursuant to subsection 21 ^{Period of detention} (2) or clause 22 (1) (b) in an observation and detention home established or designated under the *Provincial Courts Act* that ^{R.S.O. 1980, c. 398} has been designated as a place of safety, shall, as soon as is practicable after the commencement of the detention, be brought before the court and the court shall make an order,

- (a) confirming the child's detention for a period or periods that shall not in total exceed thirty days; or

- (b) discharging the child from the observation and detention home,

and upon completion of the period of detention or the discharge, as the case may be, the child shall be removed from the observation and detention home for transfer back into the care of the society. 1978, c. 85, s. 27.

Hearing
to be
held

28.—(1) Where a child who has been apprehended or produced before the court under section 21 or 22 is before the court, there shall be a hearing to determine whether or not the child is in need of protection, and before the court finds that the child is in need of protection, the court shall also determine the child's age, name, and, in the case of a child detained in a place of safety under subsection 21 (1) or clause 22 (1) (a) or subsection 22 (2), the location where the child was taken into protection and, subject to section 44, the religious faith of the child.

Witnesses

(2) The court, or upon the request of any party to the proceedings, a judge or a justice of the peace, has the power of summoning any person and requiring that person to attend before the court to testify and to produce such records, writings, documents and things as may be requisite, and the court has the same power to enforce the attendance of witnesses and to compel them to give evidence and produce records, writings, documents and things as is vested in any court in civil cases.

Who may
be heard

(3) The court may hear any person with evidence relevant to the hearing including the child, a parent of the child, subject to subsection (8), a foster parent of the child, the local director of a society or any person appearing on behalf of any of them, any person authorized by the board of directors of the society on behalf of the society, the clerk of a municipality or any person authorized by the council of the municipality on behalf of the municipality, and a district director of the Ministry or any person authorized by the Minister on behalf of Ontario.

Evidence
R.S.O. 1980,
c. 145

(4) Notwithstanding any privilege or protection afforded under the *Evidence Act*, before making a decision that has the effect of placing a child in or returning a child to the care or custody of any person other than a society, the court may consider the past conduct of that person towards any child who is or has at any time been in the person's care, and any statement or report whether oral or written, including any transcript, exhibit or finding in a prior proceed-

ing whether civil or criminal that the court considers relevant to such consideration and upon such proof as the court may require, is admissible in evidence.

(5) The court may accept evidence by affidavit but the affidavit shall be confined to facts within the personal knowledge of the person making the affidavit. 1978, c. 85, s. 28 (1-5). ^{Affidavit evidence}

(6) The court shall not proceed to hear or dispose of the matter until the court is satisfied that the parent or other person having actual custody of the child, including, where applicable, any foster parent who immediately prior to the hearing has been caring for the child on behalf of a society for a continuous period of more than six months and, subject to subsection (7), the child, has had reasonable notice of the hearing or that reasonable effort has been made in the opinion of the court to cause the parent, such other person or the child to be notified. ^{Notice}

(7) A child who is,

^{Notice to child}

(a) ten or more years of age is entitled to notice under subsection (6) unless the court is satisfied that the effect of the hearing or any part thereof would be injurious to the emotional health of the child, in which case the court may direct that the child not be served with the notice; or

(b) under ten years of age is not entitled to notice under subsection (6) unless the court decides that the child is entitled to be present at the hearing under clause 33 (b).

(8) A foster parent who is given notice under subsection (6) is entitled to make representations to the court and to be represented by counsel at the hearing, but shall take no further part in the hearing without leave of the court. ^{Foster parent at hearing}

(9) The court's right to receive evidence in any hearing under this Part shall not be restricted by the content of any notice given or application made in writing with respect to the proceedings and the court may without requiring notice to be given, unless it considers further notice to be necessary in the circumstances, make an order at any stage in a proceedings amending such notice or application. ^{Amendments}

Court may
dispense
with notice

(10) Where, in the opinion of the court, prompt service of any notice required under subsection (6) of this section or subsection 23 (6) cannot be effected and any delay might endanger the health or safety of the child, the court may dispense with the requirements of those subsections.

Limitation
where
notice
dispensed
with

(11) Where the requirements of subsection (6) have been dispensed with pursuant to subsection (10), the court shall not make an order committing the child as a ward of the Crown or make an order committing the child as a ward of a society for a period exceeding thirty days, except after holding a further hearing, and the requirements of subsection (6) apply to such further hearing.

Custody
during
adjourn-
ment

(12) A court may from time to time adjourn a hearing but no such adjournment shall, subject to subsection (13) and subsection 29 (1), be for more than thirty clear days, and pending final disposition of the hearing,

(a) where a society shows cause why the child should remain or should be placed, as the case may be, in the temporary care and custody of the society, the court shall order that the child remain or be placed in the temporary care and custody of the society; or

(b) where sufficient cause has not been shown why the child should remain or be placed, as the case may be, in the temporary care and custody of a society, the court shall order that the child be returned to or remain in the care and custody of the parent or other person in whose charge the child was immediately prior to,

(i) the child's detention, or

(ii) the production of the child before the court by the parent or other person,

unless the court is satisfied that some other order for care and custody of the child should be made, in which case, the court may make such other order for the temporary care and custody of the child as the court considers advisable pending final disposition of the hearing, except an order placing the child in a training school established under the *Training Schools Act*, or placing the child in an observation and detention home established or designated

under the *Provincial Courts Act* that has not been designated under this Act as a place of safety. 1978, c. 85, s. 28 (7-13). R.S.O. 1980,
c. 398

(13) The court, with the consent of all parties present at the hearing, may adjourn the hearing under subsection (12) for a period longer than thirty days, unless a party who is not present at the hearing informs the court in writing before the adjournment is granted that the party does not consent to a longer adjournment and, where the court grants such longer period of adjournment, the court shall give reasons for granting such longer period. 1979, c. 98, s. 3 (2). Longer
period of
adjournment

(14) Where the court is satisfied that cause has been shown why a change in the arrangements for the care and custody of the child should be made, the court may vary or terminate any order for care and custody made under subsection (12). Variation or
termination
of order

(15) For the purpose of determining under subsection (12) or (14) whether a child shall remain or be placed in the temporary care and custody of a society, the court may receive and base its decision upon evidence that the court considers credible and trustworthy in the circumstances. Standard
of proof

(16) The provisions of this section apply with necessary modifications to proceedings under subsections 32 (1) and (4), section 35, section 37 and subsections 38 (1) and (2). 1978, c. 85, s. 28 (15-17). Application

29.—(1) Where a child has been found to be a child in need of protection pursuant to section 28, a court may order the child and any parent of the child or other person, except a foster parent caring for the child on behalf of a society, in whose charge the child has been or may be, to attend for an assessment before a person or persons specified in the order and who in the opinion of the court are qualified to perform medical, emotional, developmental, psychological, educational or social assessments and who have consented to perform the assessments and within a time specified therein, and the person or persons making the assessments shall report the results thereof in writing to the court within thirty days of the order or within such longer period of time as the court may direct. Order for
assessment

(2) The court shall provide a copy of the report of the assessment to, Report

(a) subject to subsection (3), any person who is the subject of the assessment;

(b) counsel or the agent on the record for the child;

(c) a parent appearing at the hearing or the parent's counsel or agent on the record; and

(d) the society that is a party to the proceedings,

and the court shall at any time upon request order a copy of the report to be provided to a Director, and the court may at any time order a copy of the report to be provided to any other person for the purpose of the case as the court may direct.

Idem

(3) A child who is the subject of the assessment and who is,

(a) ten or more years of age shall be provided with a copy of the report unless the court is satisfied that the effect of the contents of all or any part of the report would be injurious to the emotional health of the child, in which case the court may withhold all or any part of the report from the child; or

(b) under ten years of age shall not be provided with a copy of the report pursuant to subsection (2), unless the court considers it reasonable in the circumstances that the child receive the report or any part thereof.

Idem

(4) The report of the assessment shall form part of the court record in the case but shall not be admissible in evidence for any purpose in any other proceedings except in proceedings,

(a) by way of appeal under section 43;

R.S.O. 1980,
c. 93

(b) under the *Coroners Act*; or

(c) referred to in section 51,

without the consent of the person or persons who are the subject of the assessment.

Inference
from
refusal

(5) Where a person who has been ordered under subsection (1) to attend for an assessment refuses to attend or to undergo the assessment, the court may draw such inferences relating to the placement of the child as it thinks appropriate. 1978, c. 85, s. 29.

30.—(1) Where a court finds a child to be a child in need of protection pursuant to section 28, the court shall make the one of the following orders that the court considers to be in the best interests of the child, namely:

Order where
child in
need of
protection

1. That the child be placed with or returned to the child's parent or other person, subject to supervision by the society having jurisdiction in the area where the judge hearing the case presides at the time of the hearing, for a period of not less than six months and not more than twelve months as in the circumstances of the case the court considers advisable.
2. That the child be made a ward of and committed to the care and custody of the society having jurisdiction in the area where the judge hearing the case presides at the time of the hearing, for such period, not exceeding twelve months, as in the circumstances of the case the court considers advisable.
3. That the child be made a ward of the Crown until the wardship is terminated under section 38 or expires under section 42 and that the child be committed to the care of the society having jurisdiction in the area where the judge hearing the case presides at the time of the hearing.

(2) Where a provincial judge has committed a child to the charge of a society under paragraph 20 (1) (h) of the *Juvenile Delinquents Act* (Canada), the child shall be deemed to be committed to the society under paragraph 2 of subsection (1).

Period of
committal
R.S.C. 1970,
c. J-3

- (a) where the order is for a fixed period that does not exceed twelve months, for the period specified in the order; or
- (b) where the order is for an indefinite period or exceeds twelve months, for twelve months.

(3) A provincial judge shall give reasonable notice to a society before committing a child to the charge of the society under paragraph 20 (1) (h) of the *Juvenile Delinquents Act* (Canada).

Notice

(4) In making an order under paragraph 1 of subsection (1), the court may impose reasonable terms and conditions, relating to the method of supervision of the child,

Terms and
conditions

- (a) upon the person with whom the child has been placed or returned, as the case may be;
- (b) upon the supervising society;
- (c) upon the child; and
- (d) upon any other person where the person has been afforded an opportunity to be heard.

Determina-
tion of
order

(5) In determining which order to make under subsection (1), the court shall inquire of the parties whether any efforts have been made by a society or any other agency or person to assist the child while the child was in the care of his or her parent or other person and before the child came into the care of the society. 1978, c. 85, s. 30.

Payment
by parent

31.—(1) Subject to subsection (3), where a child is found to be a child in need of protection and,

- (a) is committed to the care of a society; or
- (b) is placed with a person other than the child's parent subject to supervision by a society,

the court may order a parent or the estate of a parent to pay the society such an amount and at such intervals as the court considers proper for each day the child is in the care or under the supervision, as the case may be, of the society.

Deter-
mination of
amount

(2) In determining the amount if any that shall be paid to the society under subsection (1), the court shall have regard to the following circumstances of the parent or the estate of the parent and of the child that the court considers relevant,

- (a) the assets and means of the child and of the parent or the estate of the parent;
- (b) the capacity of the child to provide for the child's own support;
- (c) the capacity of the parent or the estate of the parent to provide support;
- (d) the age and the physical and mental health of the child and of the parent;
- (e) the mental, emotional and physical needs of the child;

(f) the legal obligation of the parent or the estate of the parent to provide support for any other person;

(g) the child's aptitude for and reasonable prospects of obtaining an education;

(h) any other legal right of the child to support other than out of public moneys.

(3) An order made under subsection (1) shall not extend beyond the date when the child attains the age of eighteen years. Idem

(4) A court may vary or rescind the order under subsection (1) where the circumstances of the child or the parent have changed. Varying payments by parent

(5) The council of a municipality may enter into an agreement with the board of directors of a society providing for the collection by the municipality on behalf of the society of the payments of the amounts required to be paid by the parent under subsection (1). Agreement to collect payments

(6) An order made against a parent under subsection (1) may be enforced in the same manner as an order made under Part II of the *Family Law Reform Act*. 1978, c. 85, s. 31. Enforcement of order
R.S.O. 1980,
c. 152

32.—(1) Subject to subsections (6) and (7), where a child has been placed under the supervision of a society pursuant to an order made under paragraph 1 of subsection 30 (1), the society may at any time and shall, before the expiration of the period of supervision and upon giving notice to the child, the parent or any person having actual custody of the child, apply to a court for a review of the child's status and the court shall thereupon further inquire and determine whether the circumstances justify the variation or termination of any term or condition of the order relating to the method of supervision of the child or a further order under subsection 30 (1) and may, having regard to the best interests of the child, vary or terminate any term or condition in the order relating to the method of supervision of the child, terminate the order or make a further order under this Part. Application to review supervision order

(2) A society shall, as soon as is practicable, and within five days of removing a child from the parent or person with whom the child has been placed pursuant to an order under paragraph 1 of subsection 30 (1), apply to a court for a review of the child's status under subsection (1). Time limit for application

Jurisdiction
of court

(3) An application under subsection (1) or (4) may be heard by the court in the county or district in which the parent or other person with whom the child was placed pursuant to the order made under paragraph 1 of subsection 30 (1) resides at the time of the application.

Idem

(4) Where a child has been placed under the supervision of a society, pursuant to an order made under paragraph 1 of subsection 30 (1), a parent of the child, a person other than a parent with whom a child is placed or to whom a child is returned or the child where the child is twelve or more years of age may, after the expiration of six months from the making of the order or from the disposition of any previous application under this section for a review of the child's status, whichever is later, and upon giving notice to the society, apply to a court for a review of the child's status and,

- (a) where the court is satisfied that the termination of the order or the variation or termination of any term or condition of the order relating to the method of supervision of the child is in the best interests of the child, the court may terminate the order or vary or terminate such term or condition of the order; or
- (b) the court may make such further order under this Part as the court considers is in the best interests of the child.

Notice

(5) Subject to subsection (7), where a notice is given to the society under subsection (4),

- (a) by a parent of the child, the society shall forthwith upon receipt of the notice cause notice of the application to be given to the child, to any other parent of the child, and where applicable to the person other than a parent with whom the child is placed or to whom the child is returned;
- (b) by a person other than a parent, the society shall forthwith upon receipt of the notice cause notice of the application to be given to a parent of the child and the child; or
- (c) by the child, the society shall forthwith upon receipt of the notice cause notice of the application to be given to a parent of the child and where applicable to the person other than a parent with

whom the child is placed or to whom the child is returned.

(6) Notwithstanding paragraph 1 of subsection 30 (1), an application under subsection (1) may be made by the society having jurisdiction in the area where the parent or other person with whom the child was placed resided immediately prior to the application being made and, where the court makes an order, that society shall be given supervision or committal of the child, as the case may be. Jurisdiction of society

(7) A child who is,

Notice to child

- (a) ten or more years of age is entitled to notice under subsection (1), and where applicable under subsection (5), unless the court is satisfied that the effect of the hearing or any part thereof would be injurious to the emotional health of the child, in which case the court may direct that the child not be served with the notice; or
- (b) under ten years of age is not entitled to notice under subsection (1), and where applicable under subsection (5), unless the court decides that the child is entitled to be present at the hearing under clause 33 (b). 1978, c. 85, s. 32.

33. The court shall, in every proceeding under this Part, make an order directing whether any child who is the subject of the proceedings shall be excluded from or be present at the hearing or any part thereof and in making an order under this section there shall be a presumption that, Presence of child at hearing

- (a) a child ten or more years of age is entitled to be present at any hearing that is part of the proceedings unless the court is satisfied that the effect of the hearing or any part thereof would be injurious to the emotional health of the child; or
- (b) a child under ten years of age shall not be present at any hearing that is part of the proceedings unless the court is satisfied that the hearing or any part thereof would be understandable to the child and not be injurious to the emotional health of the child. 1978, c. 85, s. 33.

34. Notwithstanding section 132 of the *Judicature Act* and with the leave of the court hearing an application under this Part, any step may be taken in the application, the Proceedings at any time or on a holiday
R.S.O. 1980, c. 233

hearing may be held and the order may be made and performed at any time of any day, including a holiday. 1978, c. 85, s. 34.

Access to
child

35.—(1) Subject to subsections (2), (3), (5) and (6) and subsection 38 (7),

- (a) a parent of a child where the child is in the care or custody of a society or with whom the child is placed or to whom the child is returned subject to supervision by a society, upon giving notice to the society;
- (b) a person other than a parent, with whom a child is placed or to whom a child is returned subject to supervision by a society, upon giving notice to the society;
- (c) a child twelve or more years of age and who is in the care and custody or under the supervision of a society, upon giving notice to the society;
- (d) a society having care and custody or supervision of a child upon giving notice to any foster parent who immediately prior to the application has been caring for the child on behalf of the society for more than six months, to any parent of the child, to any person with whom the child is placed or to whom the child is returned subject to supervision of a society, as the case may be, and to the child,

may, at any time after the commencement of proceedings under this Part respecting the child and whether before or after the making of an order under this Part, apply to a court for an order regarding the right of access to the child.

Idem

(2) No order regarding the right of access to a person over the age of sixteen years shall be made under subsection (4).

Idem

(3) No application under subsection (1) shall be made by a person referred to in clause (a), (b) or (c) of that subsection before the expiration of six months from the date of any previous application under that subsection by such person.

Idem

(4) Upon an application therefor in accordance with subsection (1), or at the time of making any other order under this Part, a court, having regard to the best interests of the child shall consider whether or not an order regarding

the right of access to the child shall be made, altered, varied or discharged and may make such order as the court considers proper regarding the right of access to the child by any person or may alter, vary or discharge, any order so made.

(5) A child who is,

Notice
may be
dispensed
with

- (a) ten or more years of age is entitled to notice under subsection (1) and where applicable under subsection (6), unless the court is satisfied that the effect of the hearing or any part thereof would be injurious to the emotional health of the child, in which case the court may direct that the child not be served with the notice; or
- (b) under ten years of age is not entitled to notice under subsection (1) and where applicable under subsection (6), unless the court decides that the child is entitled to be present at the hearing under clause 33 (b).

(6) Subject to subsection (5), where a notice is given to the ^{Notice} society under,

- (a) clause (1) (a), the society shall forthwith upon receipt of the notice, cause notice of the application to be given to any foster parent who immediately prior to the application has been caring for the child on behalf of the society for more than six months, to the child and to any other parent of the child; or
- (b) clause (1) (b), the society shall forthwith upon receipt of the notice cause notice of the application to be given to the parent of the child and to the child; or
- (c) clause (1) (c), the society shall forthwith upon receipt of the notice, cause notice of the application to be given to any foster parent who immediately prior to the application has been caring for the child on behalf of the society for more than six months, to a parent of the child or to any other person with whom the child is placed or to whom the child is returned subject to supervision by a society, as the case may be. 1978, c. 85, s. 35.

36. The reasons for any decision made by a court under this Part may be oral or written and shall include,

Contents
of
decision

- (a) a statement of the evidence upon which the decision of the court is based;
- (b) in the case of a decision granting or renewing an order under paragraph 1 of subsection 30 (1) or varying any term or condition of the order, a statement of any terms and conditions imposed by the court;
- (c) in the case of a decision granting or refusing,
 - (i) an order under paragraph 1, 2 or 3 of subsection 30 (1),
 - (ii) an order for the renewal or termination of any existing order under paragraph 1 or 2 of subsection 30 (1) or for the termination of any existing order under paragraph 3 of subsection 30 (1), or
 - (iii) an order varying any term or condition of any existing order under paragraph 1 of subsection 30 (1),

a statement of the plan proposed by a society or of a plan, if any, proposed by a parent of the child to meet the best interests of the child, but nothing in this section shall require the court to identify in the statement any person caring for the child during the period of any proposed placement or identify any place where the care is to be provided; and

- (d) a statement of the reasons for the decision, and, in the case of an order authorizing the removal of a child from or refusing to return the child to the parent or person in whose charge the child was immediately prior to the child's apprehension by a society, the statement shall include reasons why the child cannot be adequately protected without such removal or without the refusal of such return, as the case may be. 1978, c. 85, s. 36.

Application
to review
society
wardship

37.—(1) Subject to subsection (4), where a child has been committed as a ward of a society pursuant to an order made under paragraph 2 of subsection 30 (1), the society may at any time and shall, before the expiration of the period of wardship, other than under section 42, and upon giving notice to the child, the parent of the child and any foster parent who immediately prior to the application has been caring for the child on behalf of the

society for a continuous period of more than six months, apply to a court for a review of the child's status and the court shall thereupon further inquire and determine whether the circumstances justify a further order under subsection 30 (1) and may, having regard to the best interests of the child, terminate the order or make a further order under this Part but in no case shall an order be made that results in the child being in the care and custody of a society,

- (a) as a ward of the society;
- (b) pursuant to an agreement under subsection 25 (1); or
- (c) pursuant to an order for adjournment made under subsection 28 (12) or any extension thereof,

or as a result of any combination of circumstances referred to in clauses (a), (b) and (c), for a continuous period of more than twenty-four months. 1978, c. 85, s. 37 (1); 1979, c. 98, s. 4.

(2) Subject to subsections (4) and (5), where a child has been ^{Idem} committed as a ward of a society pursuant to an order made under paragraph 2 of subsection 30 (1),

- (a) a parent of the child after the expiration of six months from the making of the order or from the disposition of any previous application for a review of the child's status, whichever is later, and upon giving notice to the society having the care of the child; or
- (b) the child, where the child is twelve or more years of age, after the expiration of six months from the making of the order or from the disposition of any previous application for a review of the child's status, whichever is later, and upon giving notice to the society having the care of the child,

may apply to a court for a review of the child's status and,

- (c) where the court is satisfied that the termination is in the best interests of the child, the court may terminate the order; or
- (d) the court may make such further order under this Part as the court considers necessary in the

best interests of the child, but in no case shall an order be made that results in the child being in the care and custody of a society,

(i) as a ward of the society,

(ii) pursuant to an agreement under subsection 25 (1), or

(iii) pursuant to an order for adjournment made under subsection 28 (12) or any extension thereof,

or as a result of any combination of circumstances referred to in subclauses (i), (ii) and (iii), for a continuous period of more than twenty-four months.

Extension
of limitation
period

(3) Notwithstanding subsections (1) and (2), where, on an application under subsection (1) or (2) for a review of the child's status, the hearing is adjourned to a date beyond the twenty-four month period prescribed in those subsections, the order to be reviewed shall not expire at the end of such period but shall be extended until an order pursuant to subsection (1) or (2) has been made.

Notice may
be
dispensed
with

(4) A child who is,

(a) ten or more years of age is entitled to notice under subsection (1) and where applicable under subsection (5), unless the court is satisfied that the effect of the hearing or any part thereof would be injurious to the emotional health of the child, in which case the court may direct that the child not be served with the notice; or

(b) under ten years of age is not entitled to notice under subsection (1) and where applicable under subsection (5), unless the court decides that the child is entitled to be present at the hearing under clause 33 (b).

Notice

(5) Subject to subsection (4), where a notice is given to the society under,

(a) clause (2) (a), the society shall forthwith, upon receipt of the notice, cause notice of the application to be given to any foster parent who immediately prior to the application has been caring for the child on behalf of the society for more than six months, to the child and to any other parent of the child; or

- (b) clause (2) (b), the society shall forthwith, upon receipt of the notice, cause notice of the application to be given to a parent of the child and to any foster parent who immediately prior to the application has been caring for the child on behalf of the society for more than six months.

(6) Notwithstanding subsections 28 (12) and (14), where an application is made under this section for a review of the child's status, the child shall remain in the care and custody of the society having care and custody of the child at the time the application was made pending final disposition of the application by the court unless cause is shown why a change in the arrangements for the care and custody of the child should be made. 1978, c. 85, s. 37 (2-6). ^{Custody of child}

38.—(1) Subject to subsections (3), (4), (5) and (6), where a child has been committed as a ward of the Crown, pursuant to an order made under paragraph 3 of subsection 30 (1), ^{Application to review Crown wardship}

- (a) a parent of the child after the expiration of six months from the making of the order of Crown wardship or from the disposition of any previous application under this section, whichever is later, and upon giving notice to a Director and the society having the care of the child; or
- (b) the child, where the child is twelve or more years of age, after the expiration of six months from the making of the order of Crown wardship or from the disposition of any previous application under this section, whichever is later, and upon giving notice to the society having the care of the child,

may apply to a court for a review of the child's status, and, where the court is satisfied that termination is in the best interests of the child, the court shall, subject to subsection (7), order that the Crown wardship be terminated or, having regard to the best interests of the child, the court may make such other order under this Part, except an order under paragraph 2 of subsection 30 (1), that the court considers necessary and the court may include with any order made under this subsection an order granting or terminating the right of access to the child pursuant to section 35.

(2) Subject to subsections (3), (4) and (5), where a child ^{Idem} has been committed as a ward of the Crown, pursuant to an order made under paragraph 3 of subsection 30 (1), the society having the care of the child upon giving notice to a Director, any foster parent who immediately prior to the application has been

caring for the child on behalf of the society for more than six months, any parent of the child and the child, may, at any time during the period of the Crown wardship, apply to a court for a review of the child's status, and, where the court is satisfied that termination is in the best interests of the child, the court shall, subject to subsection (7), order that the Crown wardship be terminated or, having regard to the best interests of the child, the court may make such other order under this Part, except an order under paragraph 2 of subsection 30 (1), that the court considers necessary and the court may include with any order made under this subsection an order granting or terminating the right of access to the child pursuant to section 35.

Notice not
required

(3) A notice is not required to be given under subsections (1) and (2) to a parent of a child where the child has attained the age of sixteen years.

Notice may
be dispensed
with

(4) A child who is,

(a) ten or more years of age is entitled to notice under subsections (1) and (2) and where applicable under subsection (6), unless the court is satisfied that the effect of the hearing or any part thereof would be injurious to the emotional health of the child, in which case the court may direct that the child not be served with the notice; or

(b) under ten years of age is not entitled to notice under subsections (1) and (2) and where applicable under subsection (6), unless the court decides that the child is entitled to be present at the hearing under clause 33 (b).

Termination
of access

(5) Before making an order under subsection (1) or (2) terminating an order for access to the child made pursuant to section 35, the court shall consider whether the benefit to the child of any plan proposed for the child, including plans for seeking an adoption placement for the child, outweighs the benefit to the child of maintaining the access rights.

Notice

(6) Subject to subsection (4), where a notice is given to the society under,

(a) clause (1) (a), the society shall, forthwith upon receipt of the notice, cause notice of the application to be given to any foster parent who immediately prior to the application has been caring for the

child on behalf of the society for more than six months, to the child and to any other parent of the child; or

- (b) clause (1) (b), the society shall forthwith, upon receipt of the notice, cause notice of the application to be given to a Director, to a parent of the child and to any foster parent who immediately prior to the application has been caring for the child on behalf of the society for more than six months.

(7) Subject to sections 39 and 42, where a child has been committed as a ward of the Crown, the order made under paragraph 3 of subsection 30 (1) shall remain in effect and the Crown wardship shall, subject to an adoption order being made with respect to the child under Part III, not be terminated by, reviewed in or otherwise brought before the court and an order of access to the child shall not be made or applied for where the child has been placed for the purpose of adoption in the home of a person who has been approved by a society or by a Director as a suitable person to adopt the child and while the child is residing in that person's home.

(8) The placement for the purpose of adoption of the child referred to in subsection (7) shall not be made until any appeal under section 43, from,

- (a) the decision granting an order of Crown wardship; or
- (b) any decision granting or refusing an order under subsection (1) or (2),

has finally been disposed of, or until,

- (c) the period of time for commencing an appeal under section 43 from a decision referred to under clause (a) or (b) has expired; or
- (d) any outstanding order of access to the child under this Act has been terminated,

whichever is the later.

(9) Notwithstanding subsections 28 (12) and (14), where an application is made under this section for a review of the child's status, the child shall remain in the care and custody of the society having care and custody of the child at the time the application was made pending final disposition of the application by the court unless cause is shown why a change in the arrange-

ments for the care and custody of the child should be made. 1978, c. 85, s. 38.

Review
by
Director

39. A Director or any person authorized by the Director shall, during each calendar year, review the status of each child who during that calendar year and, in the absence of any further order by the court has been or will continue to be a Crown ward for a continuous period of twenty-four months from the date of the order of Crown wardship or from the last review under this subsection, whichever is later, and the Director may after any such review direct the society having care of the child to make an application pursuant to subsection 38 (2) to a court for a review of the child's status. 1978, c. 85, s. 39, *revised*.

Duties re
Crown wards

40.—(1) The Crown has and shall assume all the rights and responsibilities of a legal guardian of each child who is made a ward of the Crown for the purpose of the child's care, custody and control, and the powers, duties and obligations of the Crown in respect of the child other than the powers, duties and obligations assigned to a Director by this Act shall be exercised and discharged by the society having the care of the child.

Transfer of
Crown ward

(2) A Director may direct that a Crown ward be transferred to the care of any other society or institution designated by the Director. 1978, c. 85, s. 40.

Society
to be
legal
guardian

41. Each society has and shall assume all the rights and responsibilities of a legal guardian of every child who is committed as a ward of the society for the purpose of their care, custody and control. 1978, c. 85, s. 41.

Expiration
of
wardship

42. Every order under this Part shall be deemed to expire with the marriage of the child who is the subject of the order or when the child attains the age of eighteen years, but where a wardship expires as a result of a Crown ward attaining the age of eighteen years, a society may, with the approval of a Director, continue to provide care and maintenance for the former Crown ward if the former Crown ward,

(a) is enrolled as a full-time student at an educational institution; or

(b) is mentally or physically incapacitated,

for any period of time after the expiration of the wardship that does not extend beyond the date when the former Crown ward attains the age of twenty-one years. 1978, c. 85, s. 42.

43.—(1) A decision granting or refusing an order of a court under this Part except a decision made under subsection 29 (1) in respect of a child may be appealed to the county or district court of the county or district in which the decision was made by, ^{Appeal to county court}

- (a) a parent or other person in whose charge the child may have been at the time of the child's apprehension;
- (b) a Director or local director; or
- (c) a next friend on behalf of the child.

(2) Execution of the decision being appealed shall be stayed for ten days next following the service of the notice of appeal upon the court that made the decision being appealed, and, where the child is in the custody of the society at the time the decision being appealed is made, the child shall remain in the care and custody of the society, ^{Decision stayed}

- (a) during the ten days that execution of the decision is stayed; or
- (b) until the county or district court of the county or district in which the decision was made makes an order for temporary care and custody of the child pursuant to subsection (4),

whichever is earlier.

(3) Notwithstanding subsection (2), where the decision being appealed authorizes the child to remain in the care and custody of the society, the child shall, subject to subsection (4), remain in the care and custody of the society after the period of ten days referred to in subsection (2), pending final disposition of the appeal. ^{Child to remain with society}

(4) Where the county or district court of the county or district in which the decision being appealed was made is satisfied that an order for care and custody of the child is in the best interests of the child, the county or district court may make such order for the temporary care and custody of the child that the county or district court considers advisable pending final disposition of any appeal made under this section, except an order placing the child in a training school established under the *Training Schools Act* or placing the child in an observation and detention home established or designated under the *Provincial Courts Act* that has not been designated under this Act as a place of safety, and the county or district court may, upon application by any party before the final disposition of the appeal and where the county or district court is satisfied that it is in the best interests of the ^{Temporary order of court}

child, vary or terminate the order or make a further such order.

Period of
temporary
wardship

(5) Where, pursuant to the final disposition of the appeal, the child is committed as a ward of the society, any period of temporary care and custody ordered under subsection (4) shall be included in determining the twenty-four month period prescribed in subsection 37 (1) or (2).

Extension
of
limitation
period

(6) Notwithstanding subsection (5) and subsections 37 (1) and (2), where on an appeal under this section from a decision granting an order under paragraph 2 of subsection 30 (1) or an order for the renewal or termination of an order under that paragraph, the final disposition of the appeal extends beyond the twenty-four month period prescribed in subsection 37 (1) or (2), the order being appealed shall not expire at the end of such period but shall be extended until a final disposition is made of the appeal.

Extension of
time for
appeal

(7) No extension of the time for the commencement of the appeal shall be granted after the child has been placed for adoption.

New
evidence

(8) On the hearing of the appeal and with leave of the county or district court hearing the appeal, further evidence relating to matters both preceding and subsequent to the making of the decision being appealed, may be received by affidavit, oral examination or as may be directed by the county or district court. 1978, c. 85, s. 43.

Pre-
sumption
as to
religious
faith

44.—(1) Subject to subsection (2), for the purposes of this section, a child shall be deemed to have the same religious faith as the child's father unless it is shown that an agreement has been entered into in writing, signed by the child's parents, that the child be brought up in the same religious faith as the child's mother.

Child
born
outside
marriage

(2) For the purposes of this section, a child born outside marriage shall be deemed to have the religious faith of the child's mother.

Where
established
faith not
that of
parent

(3) Where a child is being raised in a religious faith other than the child's religious faith as determined under subsection (1) or (2) or where the child's religious faith cannot be readily determined under subsection (1) or (2), the court may determine the child to have such religious faith, if any, for the purposes of this section, as the court considers proper in the circumstances.

Religious
faith of
child

(4) A Protestant child shall not be committed under this Part to the care of a Roman Catholic society or institution and a Roman Catholic child shall not be committed under this Part to a Protestant society or institution, and a

Protestant child shall not be placed in a foster home with a Roman Catholic family and a Roman Catholic child shall not be placed in a foster home with a Protestant family, and, where a child committed under this Part is other than Protestant or Roman Catholic, the child shall be placed where practicable with a family of the child's own religious faith, if any.

(5) Subsection (4) does not apply to the commitment of a child to the care of a society in a municipality in which there is only one society. Where only one society

(6) Where a society,

Application to waive subs. (4)

(a) is unable to place a child in a suitable foster home within a reasonable time because of the operation of subsections (1) to (4); and

(b) would be able to place the child in a suitable foster home but for the operation of subsections (1) to (4),

the society or a Director may apply to the court who may order that subsection (4) does not apply to the child in respect of the placement.

(7) Notwithstanding anything in this section, the court may have regard to the wishes of the child in determining what order ought to be made as to the child's religious faith. Child's wishes to be consulted
1978, c. 85, s. 44.

45.—(1) A child who is a ward of the Crown or of a society may be placed by the society for any period of time in a foster home or other suitable place according to the needs of the child and the society shall ensure that the child so placed receives an education in accordance with the laws of Ontario and in keeping with the child's intellectual capacity and that provision is made for the child's occupational training and total development such as a good parent would provide for his or her own child. Society may place ward

(2) A child who is a ward of the Crown or of a society and who has been placed in a foster home or other suitable place may at any time be removed by the society when, in the opinion of a Director or the local director, the welfare of the child so requires. Removal of ward of society

(3) Where a child who is a ward of the Crown is placed in a foster home and, in the opinion of the local director with the approval of a Director, it is in the best interests of the child to place the child for adoption, the foster parents shall not be denied the opportunity of making application to adopt the child if they so desire. Adoption of ward
1978, c. 85, s. 45.

Inter-
ference
with wards,
etc.

46. No person shall,

- (a) induce or attempt to induce a child to leave the care of a person or persons with whom the child is lawfully placed; or
- (b) detain or harbour a child who is lawfully in the care of a person or persons, after a demand is made by a person authorized to require the child to be delivered up; or
- (c) subject to section 35, visit, write to, telephone to, communicate with, remove or attempt to remove from any place, or otherwise interfere with a child who is in the lawful care or custody of a society; or
- (d) subject to section 35, visit, write to, telephone to or communicate with, for the purpose of interfering with the child, a foster parent of a child where the child is in the lawful care or custody of a society,

without the consent in writing of the society having the care, custody or supervision of the child. 1978, c. 85, s. 46.

Interpre-
tation

47.—(1) For the purposes of this section and sections 49, 50, 51 and 52, "abuse" means a condition of,

- (a) physical harm;
- (b) malnutrition or mental ill-health of a degree that if not immediately remedied could seriously impair growth and development or result in permanent injury or death; or
- (c) sexual molestation.

Desertion,
abuse, etc.,
of child

(2) No person having the care, custody, control or charge of a child shall abandon or desert the child or inflict abuse upon the child or permit the child to suffer abuse.

Further
proceedings
as to child

(3) A court may, in connection with any case arising under subsection (2), hold a hearing in respect of any child concerned and may proceed as though the child had been brought before the court as a child apparently in need of protection. 1978, c. 85, s. 47.

Leaving
child

48.—(1) No person having the care, custody, control or charge of a child shall leave the child without making reasonable provision, in the circumstances, for the supervision, care or safety of the child.

(2) A court may in connection with any case arising under subsection (1) hold a hearing in respect of any child concerned and may proceed as though the child had been brought before the court as a child apparently in need of protection. Further proceedings as to child

(3) Where a person is charged with contravening subsection (1), the onus of establishing that reasonable provision was made in the circumstances for the supervision, care or safety of the child where the child is under the age of ten years, rests with the person charged. 1978, c. 85, s. 48. Onus

49.—(1) Every person who has information of the abandonment, desertion or need for protection of a child or the infliction of abuse upon a child shall forthwith report the information to a society. Reporting abuse of child

(2) Notwithstanding the provisions of any other Act, every person who has reasonable grounds to suspect in the course of the person's professional or official duties that a child has suffered or is suffering from abuse that may have been caused or permitted by a person who has or has had charge of the child shall forthwith report the suspected abuse to a society. Duty of professional to report

(3) This section applies notwithstanding that the information reported is confidential or privileged and no action for making the report shall be instituted against any person who reports the information to a society in accordance with subsection (1) or (2) unless the giving of the information is done maliciously or without reasonable grounds to suspect that the information is true. Privilege abolished

(4) Nothing in this section shall abrogate any privilege that may exist between a solicitor and the solicitor's client. 1978, c. 85, s. 49. Solicitor and client privilege

50.—(1) Subject to the provisions of subsection (4) with respect to section 29 of the *Mental Health Act* and notwithstanding the provisions of any other Act, where the applicant satisfies the court, Access to records, etc. R.S.O. 1980, c. 262

(a) that there are reasonable and probable grounds to believe that there are records, writings or documents at any place that are relevant to an investigation to determine whether abuse has been or is likely to be inflicted on a child; and

(b) that a request by a Director, a local director of a society or a person authorized by the Director or by the local director to inspect such records,

writings or documents has been refused by the custodian of the records, writings or documents,

the court upon application by the Director or the society, as the case may be, and upon notice of the application being given to the custodian of the records, writings or documents, may, subject to subsection (2), make an order for the production by the custodian thereof of any of the records, writings or documents or any part or parts thereof that the court considers are relevant to an investigation to determine whether the abuse has been or is likely to be inflicted on the child, to the Director or the local director or person authorized by the Director or the local director, as the case may be, and the Director, local director or the person may inspect and extract information from such records, writings or documents or part or parts thereof that are designated in the order and reproduce such copies therefrom as the Director, local director or the person, as the case may be, considers necessary.

Non-disclosure of records, etc.

(2) The records, writings or documents or any part or parts thereof that are produced or disclosed to the court in the course of a hearing held to determine whether an order should be made under subsection (1) for the production of the records, writings or documents or any part or parts thereof, shall not be disclosed to any person except pursuant to and in accordance with any order made following the hearing under subsection (1).

Idem

(3) No person who obtains information pursuant to an order made under subsection (1) shall disclose or transmit or permit the disclosure or transmission of the information except for the purpose of the investigation to determine whether the child is in need of protection or for giving evidence in proceedings under this Part.

Matters to be considered by court
R.S.O. 1980, c. 262

(4) In determining whether to make an order under subsection (1) for the production of a clinical record within the meaning of section 29 of the *Mental Health Act*, the court shall give equal consideration to the matters to be considered under subsection 29 (7) of that Act and the health and safety of the child. 1978, c. 85, s. 50.

Action for recovery on behalf of child

51. Where the Official Guardian, or in the case of a child in the care of a society under paragraph 2 or 3 of subsection 30 (1), the society is of the opinion that a child has a cause of action against a person or persons or other right of recovery by reason of the infliction of abuse upon the child and that the institution of proceedings to recover damages or other compensation would be in the best interests of the child, the Official Guardian or the

society, as the case may be, may institute and conduct such proceedings on behalf of the child in respect of the abuse suffered by the child. 1978, c. 85, s. 51.

52.—(1) In this section,

(a) “Director” means an employee of the Ministry appointed by the Minister for the purposes of this section;

Interpre-
tation

(b) “registered person” means a person named in or otherwise identifiable from the register established under subsection (3), but does not include the person or persons making the report to a society pursuant to subsection 49 (1) or (2) who are not themselves the subject of the report.

(2) Every society that receives information under section 49 concerning the abuse of a child, including a child in the care of a society, shall forthwith, after the information is verified in the manner determined by the Director, report the information to the Director in the prescribed form, and no action or other proceeding for damages shall be instituted against any officer or employee of a society for any act done in good faith in the execution or intended execution of any ~~duty imposed on the society under this subsection or for any alleged neglect or default in good faith of such duty.~~

Society
to report
information
concerning
abuse

(3) The Director shall maintain a register in the manner prescribed by the regulations for the purpose of recording information received by societies under section 49 concerning the abuse of children, but the register shall not contain any information that has the effect of identifying the person or persons making the report to a society pursuant to subsection 49 (1) or (2) unless such person or persons are themselves the subject of the report.

Register

(4) Subject to subsections (5) to (10) and notwithstanding the provisions of any other Act, no person shall inspect, remove, disclose, transmit or alter or permit the inspection, removal, disclosure, transmission or alteration of information maintained in the register established under subsection (3).

Information
confidential

(5) A coroner, a legally qualified medical practitioner or police officer authorized in writing and directed by a coroner for the purposes of an investigation or inquest under the *Coroners Act* and the Official Guardian or a person duly authorized as the agent of the Official Guardian may inspect or remove the information maintained in the register established under subsection (3) and may disclose or transmit

Exceptions

R.S.O. 1980,
c. 93

that information only in accordance with the authority vested in the person and in the case of the Official Guardian or his duly authorized agent only for the purposes of section 51.

Idem

(6) The Director and the following persons with the approval of the Director, and subject to such terms and conditions as the Director may impose, may inspect or remove or permit the inspection or removal of the information maintained in the register and may disclose or transmit or permit the disclosure or transmission of that information to any person referred to in subsection (5) or to any other person referred to in this subsection:

1. A person who is on the staff of,
 - i. the Ministry,
 - ii. a society, or
 - iii. a child protection agency recognized by a jurisdiction outside Ontario.
2. A person who is or may be providing services or treatment to a registered person.

Idem

(7) A person who has the written approval of the Director and who is engaged in *bona fide* research may inspect the information referred to in subsection (4) but shall not use or communicate the information for a purpose other than research, academic pursuits or the compilation of statistical data and shall not communicate any information that has the effect of identifying any person named in the register.

Idem

(8) A registered person or the registered person's agent may inspect the information maintained in the register, but shall not inspect information that refers to persons other than the registered person.

Idem

(9) A legally qualified medical practitioner who is approved by the Director may inspect information referred to in subsection (4) that is approved by the Director.

Idem

(10) The Director or a person approved by the Director who is on the staff of the Ministry may expunge a name from the register or otherwise amend the register pursuant to a decision of the Director or as prescribed by the regulations.

Register
inadmissible

(11) The register established under subsection (3) is inadmissible in evidence for any purpose in any proceedings, except,

- (a) to prove compliance or non-compliance with any of the provisions of this section;
- (b) in an appeal made under subsection (19);
- (c) in proceedings under the *Coroners Act*; or
- (d) in proceedings referred to in section 51.

R.S.O. 1980,
c. 93

(12) Where an entry is made in the register, the Director shall forthwith cause notice to be given in writing to each registered person included in the entry who is alleged or suspected to have inflicted abuse upon a child, Notice

- (a) that the person's name has been recorded in the register or that the person is otherwise identifiable from the register;
- (b) that the person or the person's agent is entitled to inspect the information in the register that refers to or identifies the person; and
- (c) that the person is entitled to request the Director to expunge the person's name from the register or to have the register otherwise amended.

(13) A person to whom a notice is given under subsection (12) may request the Director to expunge from the register the registered person's name referred to in the notice or to otherwise amend the register. Request
for a
hearing

(14) Where the Director receives a request under subsection (13), the Director shall hold a hearing before deciding to refuse the request to expunge the registered person's name from the register or to refuse the request to otherwise amend the register, and the provisions of the *Statutory Powers Procedure Act* apply, with necessary modifications, to the hearing. Hearing

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(15) A registered person to whom notice is given under subsection (12), the society that received the information concerning the registered person under subsection 49 (1) or (2) and such other persons as the Director may specify are parties to the hearing. Parties

(16) The Director shall cause notice of the hearing to be given to the parties to the hearing at least ten days before the hearing is held. Notice

(17) Where the Director, after holding a hearing, determines that the information in the register with respect to a Decision
of
Director

registered person should not be in the register or that the information is in error, the Director shall, subject to subsections (19) and (20), cause the registered person's name to be expunged from the register or otherwise cause the register to be amended, as the case may be, and the Director may order that a society's records be amended to reflect the Director's decision.

Delegation of
authority
to hold a
hearing

(18) The Director may authorize any other person to hold a hearing required under subsection (14) and where such person is authorized by the Director to hold the hearing, the person shall exercise the powers and duties of the Director under subsections (14) to (17).

Appeal

(19) Any person who is a party to the hearing may appeal the decision made pursuant to subsection (17) to the Divisional Court.

Decision of
Divisional
Court

(20) The Divisional Court may affirm the decision appealed from or may rescind the decision and refer the matter back to the Director or the person authorized by the Director under subsection (18), as the case may be, to be disposed of in accordance with such directions as the Divisional Court considers proper under this section, and the Director or the person authorized by the Director shall give effect to any direction given by the Divisional Court under this subsection.

Record of
proceedings
at hearing
inadmissible

(21) The record of proceedings in any hearing held under subsection (14) or in any appeal under subsections (19) and (20) is inadmissible in evidence in any other proceeding for any purpose except proceedings under clause 94 (1) (c) and subclause 94 (1) (f) (iv). 1978, c. 85, s. 52.

Causing
child
to beg,
perform,
etc.

53.—(1) No person shall,

- (a) cause or procure a child to be in any place to which the public has access for the purpose of begging or receiving charity or of inducing the giving of charity whether under the pretence of singing, playing, performing, offering anything for sale or otherwise; or
- (b) subject to subsection (2), cause or procure a child to be in any place to which the public has access for the purpose of singing, playing or performing for profit or offering anything for sale between 9 o'clock in the afternoon of any day and 6 o'clock in the morning of the following day; or
- (c) subject to subsection (2), cause or procure a child to be at any time for the purpose of singing, play-

ing or performing for profit or offering anything for sale in any circus, theatre or other place of public entertainment to which the public is admitted by payment.

(2) In the case of an entertainment or series of entertainments to take place in premises used for public entertainment or in a circus, theatre or other place of public amusement, where it is shown that provision has been made to ensure the health and proper treatment of a child proposed to be employed thereat, the head of the council of the municipality where the entertainment is to take place may, with the approval of a society having jurisdiction where the entertainment is to take place, grant a licence for such time and during such hours of the day and subject to such restrictions and conditions as the head of the council thinks fit for any child who in the opinion of the head of the council is a fit and proper person to take part in such entertainment or series of entertainments, and the licence may at any time be varied, added to or revoked by the head of the council with the approval of the society.

Licence for
child to
perform in
public

(3) The head of the council may assign to the chief of police of the municipality or to some other person the duty of ensuring that the restrictions and conditions of any licence granted under subsection (2) are duly complied with, and the chief of police or such person, as the case may be, may enter, inspect and examine any place at which the employment of a child is for the time being licensed. 1978, c. 85, s. 53.

Officer to
supervise
licence

54.—(1) Subject to subsection 53 (2), no person under sixteen years of age shall engage in any trade or occupation in a place to which the public has access between the hours of 9 o'clock in the afternoon and 6 o'clock in the morning of the following day.

Person under
sixteen in
public place

(2) No person under sixteen years of age shall loiter in any place to which the public has access between the hours of 10 o'clock in the afternoon and 6 o'clock in the morning of the following day or be in any place of public resort or entertainment during such hours unless accompanied by the person's parent or an adult appointed by the parent or in the case of a child in the lawful care or custody of a society, an adult appointed by the society to accompany that person.

Person
under
sixteen
loitering
in public
place
at night

(3) A person found contravening any provision of this section may be warned by a police officer, and, if the warning is not regarded or if, after the warning, the person is again found con-

Warning

travening any provision of this section, the person may be taken by the police officer to the person's home or to a place of safety and where the person is taken to a place of safety, the person shall be brought before a court as if the person had been apprehended pursuant to section 21 or 22. 1978, c. 85, s. 54.

Presumption
as to
age of
child

55. Where a person is charged with an offence under this Part in respect of a child who is alleged to be under a specified age and the child appears to the court to be under that age, the child shall for the purposes of this Part be deemed to be under that age unless the contrary is proved. 1978, c. 85, s. 55.

Separate
place of
detention

56.—(1) A child who is charged with an offence or brought before a court under this Part shall not, before the child's trial or hearing, be confined in a place used for persons charged with crime.

Idem

(2) Provision shall be made for the separate detention of every such child prior to the child's trial or hearing by arrangement with a person or society willing to undertake the responsibility of such detention on such terms as are agreed upon, or by providing suitable premises entirely distinct and separated from the ordinary lock-up or correctional institution.

Idem

(3) A child lawfully in custody shall not be placed or allowed to remain in the company of adult prisoners. 1978, c. 85, s. 56.

Place of
hearing

57.—(1) Where a hearing is held under this Part, except a hearing under section 52, whether upon an application or by way of trial or appeal, the hearing shall be held in premises maintained specifically for the purpose or in the private office of the judicial officer holding the hearing or in other suitable premises, but the hearing shall not be held in premises ordinarily used for hearings in criminal proceedings.

Exclusion
of
persons
from
hearing

(2) Where a hearing is held under this Part, whether upon an application or by way of trial or appeal, all persons shall be excluded from the hearing unless the judicial officer holding the hearing having regard to,

(a) the wishes and interests of the parties; and

(b) whether or not the presence of others at the hearing would be injurious to the emotional health of any child who is present at the hearing,

otherwise directs.

(3) Notwithstanding subsection (2),

Idem

- (a) a person acting as prosecutor in the proceedings and an agent of the Attorney General and of a Director ; and
- (b) subject to section 33, a child who is a party to the proceedings, the child's parents, a representative of a society, a person acting on behalf of the child, a person acting on behalf of the society, a person acting on behalf of the child's parents and any other person entitled to notice of the hearing,

may be present at a hearing held under this Part.

(4) Notwithstanding subsection (2) and subject to subsection (5), representatives of the press, radio and television media not exceeding two in number as agreed upon by all such representatives who present themselves, may be present at a hearing under this Part, except a hearing under section 52, but the judicial officer holding the hearing may exclude any or all such representatives from all or any part of the hearing or may prohibit the reporting of all or any part of the case by such representatives who are present at the hearing where the judicial officer is of the opinion that the presence of the representative or representatives, as the case may be, at the hearing or the reporting would be injurious to the emotional health of any child before the court and the judicial officer shall give reasons for the exclusion.

(5) Where the representatives referred to in subsection (4) who are entitled to be present at the hearing are unable to agree as to who shall be present at the hearing, the judicial officer holding the hearing may designate those representatives who are entitled to be present.

(6) The presence at the hearing of more than two representatives of the press, radio or television media may be allowed by the judicial officer holding the hearing.

(7) Where a hearing is held under this Part, whether upon an application or by way of a trial or appeal, no person shall publish or make public in respect of the proceedings any information that has the effect of identifying,

- (a) any child or a parent or foster parent of the child or a member of the child's family present at the proceedings whether as a party, witness or otherwise; and

- (b) any person charged with an offence in the proceedings.
1978, c. 85, s. 57.

Effect of
order of
court in
other
jurisdiction

58. Where, an order or orders are made by a court of competent jurisdiction in any other province or territory of Canada or in any other state or country or part thereof that is prescribed in the regulations and such order or orders do not effect an adoption of the child according to the law of the jurisdiction where the order or orders were made, but the rights and responsibilities of guardianship in respect of a child have been legally vested by such order or orders in any person, organization, province, state or country or a legal representative of any of them, the order or orders so made shall for all purposes in Ontario have the same force and effect as if made under this Act. 1978, c. 85, s. 58.

PART III

ADOPTION

Interpre-
tation

59.—(1) In this Part and Part IV,

- (a) “adoption agency” means a corporation without share capital having objects of a charitable nature,

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c. 95

- (i) to which Part III of the *Corporations Act* applies, or

- (ii) that is incorporated under a general or special Act of the Parliament of Canada,

and that places children under eighteen years of age for adoption and includes a society;

- (b) “licence” means a licence issued under this Act;

- (c) “relative of the child” means a grandparent, uncle or aunt of the child, whether the relationship is of whole blood, half blood or by marriage, and notwithstanding that the relationship is traced through or to a person born outside marriage or that the relationship depends on the adoption of any person.

Idem

(2) In this Part, “child” means a person whether under eighteen years of age or eighteen or more years of age. 1978, c. 85, s. 59.

Licence
required

60.—(1) No person other than a society shall establish, operate or maintain an adoption agency except under the authority of a licence issued by a Director under this Act.

(2) Subject to section 61, any person who is a corporation without share capital having objects of a charitable nature, Issuance of licence

(a) to which Part III of the *Corporations Act* applies; or R.S.O. 1980, c. 95

(b) that is incorporated under a general or special Act of the Parliament of Canada,

and who applies in accordance with this Act and the regulations for a licence to establish, operate or maintain an adoption agency and pays the prescribed fee is entitled to be issued a licence by a Director subject to such terms and conditions as the Director may prescribe.

(3) Subject to section 61, a Director shall renew a licence of an adoption agency on application therefor by the licensee in accordance with this Act and the regulations and payment of the prescribed fee, and the renewal shall be subject to such terms and conditions as the Director may prescribe. Renewal of licence

(4) Subject to section 61, where an applicant under subsection (2) or (3), as the case may be, for a licence or a renewal of a licence does not meet all the requirements for the issuance of a licence or renewal thereof and requires time to meet such requirements, a Director may, subject to such terms and conditions as the Director may prescribe, issue a provisional licence for such period or periods as the Director considers necessary to afford the applicant an opportunity to meet the requirements. Provisional licence

(5) The Director may, subject to such terms and conditions as the Director may prescribe, issue a licence to a person other than an adoption agency for the placement of a child under eighteen years of age with another person for the purpose of adoption. Licence to person other than adoption agency

(6) A licence is not transferable. Not transferable

(7) A licensee that is a corporation shall notify a Director in writing within fifteen days of any change in the officers or directors of the corporation. 1978, c. 85, s. 60. Notice of change

61.—(1) Subject to section 62, a Director may refuse to issue a licence where in the Director's opinion, Grounds for refusal

(a) any of the officers, directors or employees of the applicant are not competent to place children under eighteen years of age for adoption in a responsible

manner in accordance with this Act and the regulations;

- (b) an applicant for a licence under subsection 60 (5) who is not a corporation or any employee of the applicant is not competent to place a child under eighteen years of age for adoption in a responsible manner in accordance with this Act and the regulations; or
- (c) the past conduct of any of the officers, directors or employees of the applicant affords reasonable grounds for belief that any of them will not operate an adoption agency in accordance with this Act and the regulations.

Revocation
or refusal
to renew

(2) Subject to section 62, a Director may refuse to renew or may revoke a licence issued to an adoption agency or to a person referred to in subsection 60 (5) where in the Director's opinion,

- (a) any officer, director or employee of the licensee has contravened or has knowingly permitted any person under the control or direction of or associated with the officer, director or employee, as the case may be, to contravene,
 - (i) any provision of this Act or the regulations, or
 - (ii) any term or condition of the licence;
- (b) the licensee under subsection 60 (5) who is not a corporation, or any employee of the licensee has contravened or knowingly permitted any person under the control or direction of or associated with the licensee, as the case may be, to contravene,
 - (i) any provision of this Act or the regulations, or
 - (ii) any term or condition of the licence;
- (c) any person has made a false statement in the application for the licence or renewal thereof, or in any report, document or other information required to be furnished by this Act or the regulations or by any other Act or regulation that applies to the adoption agency or the licensee under subsection 60 (5), as the case may be;
- (d) where the applicant is a corporation, a change in the officers or directors of the applicant would, if

the applicant were applying for the licence in the first instance, afford grounds for refusing to issue a licence under clause (1) (c); or

- (e) the adoption agency is operated in a manner that is prejudicial to the health, safety or welfare of the children being placed by the adoption agency for adoption. 1978, c. 85, s. 61.

62.—(1) In this section and in sections 63 and 65, ^{Interpre-}
“Board” means the Children’s Services Review Board estab-
lished under the *Children’s Residential Services Act*.

R.S.O. 1980,
c. 71

- (2) Where a licensee is dissatisfied with the terms and con- ^{Hearing}
ditions prescribed by a Director under subsection 60 (2), (3), (4) or
(5), the licensee may, within fifteen days after the licence is
received by the licensee by written notice given to the Director
and to the Board, require a hearing by the Board and the Board
shall appoint a time for and shall hold a hearing.

- (3) The Board, pursuant to a hearing under subsection (2), ^{Board may}
may affirm the terms and conditions prescribed by a Director ^{impose}
under subsection 60 (2), (3), (4) or (5) or may cancel such terms ^{terms and}
and conditions or may prescribe such other terms and conditions ^{conditions}
in lieu of those prescribed by the Director as it considers proper.

- (4) For the purposes of subsection (2), a licence shall be ^{Receipt of}
deemed to be received by a licensee on the tenth day after ^{licence}
the day of mailing of the licence unless the person to whom
the licence is issued establishes that the person did not
receive it or did not, acting in good faith, through absence,
accident, illness or other cause beyond the person’s control,
receive the licence until a later date.

- (5) Where a Director proposes to refuse to issue a ^{Notice of}
licence under section 61 or to refuse to renew or revoke a ^{proposal}
licence issued under that section, the Director shall cause ^{to refuse}
notice to be served of the Director’s proposal, together with ^{to issue,}
written reasons therefor, on the applicant or the licensee, as ^{or to}
the case may be. ^{revoke}

- (6) A notice under subsection (5) shall inform the applicant ^{Notice}
or licensee, as the case may be, that the applicant or ^{requiring}
licensee is entitled to a hearing by the Board if the applicant ^{hearing}
or licensee mails or delivers, within fifteen days after the
notice is served on the applicant or licensee, notice in
writing to the Director and to the Board requiring a hearing,
and the applicant or licensee, as the case may be, may so
require such a hearing.

Powers of
Director
where no
hearing

(7) Where an applicant or licensee does not require a hearing by the Board in accordance with subsection (6), the Director may carry out the proposal stated in the Director's notice under subsection (5) without a hearing.

Continuation
of licence
pending
renewal

(8) Where, within the time prescribed therefor or, if no time is prescribed, before expiration of a licence, a licensee has applied for renewal of a licence and paid the prescribed fee, the licence shall be deemed to continue,

(a) until the renewal is granted; or

(b) where the licensee is served with notice that the Director proposes to refuse to grant the renewal, until the time for requiring a hearing has expired and, where a hearing is required, until the Board has made its decision. 1978, c. 85, s. 62.

Application
R.S.O. 1980,
c. 71

63. Sections 6, 8, 10, and 11 of the *Children's Residential Services Act* apply with necessary modifications to a notice under subsection 62 (2) or (5), to proceedings before the Board and to the powers of the Board under section 62 and to appeals therefrom. 1978, c. 85, s. 63.

Suspension
of licence

64. Notwithstanding section 62, a Director may, by causing notice to be served on an adoption agency or a licensee under subsection 60 (5), as the case may be, and without a hearing, provisionally suspend the licence of the adoption agency or the licensee where, in the opinion of the Director, the operation of the adoption agency or the licensee is an immediate threat to the health, safety or welfare of the children or child placed or to be placed by the adoption agency or the licensee, as the case may be, for adoption and the Director so states in such notice giving reasons therefor, and, upon suspension, the provisions of sections 62 and 63 apply as if the notice given under this section were a notice of a proposal under subsection 62 (2) to revoke the licence. 1978, c. 85, s. 64.

Child to be
placed by
licensee

65.—(1) No person other than an adoption agency or licensee under subsection 60 (5) shall,

(a) place or cause to be placed a child under eighteen years of age with another person; or

(b) take or send or attempt to take or send any child under eighteen years of age who is a resident of or who was born in Ontario, out of Ontario,

for the purpose of adoption.

(2) No person shall receive a child under eighteen years of age for the purpose of adoption without the prior approval of a Director under subsection (7). Approval of Director required

(3) Every adoption agency or licensee under subsection 60 (5) that proposes, Notice to Director

(a) to place a child under eighteen years of age; or

(b) to take or send a child under eighteen years of age who is a resident of or was born in Ontario, out of Ontario to be placed,

for the purpose of adoption, shall in advance of the placement notify a Director of the proposed placement.

(4) Subsections (1), (2) and (3) do not apply to, Application

(a) the placement of a child with a relative of the child or with the spouse of a parent of the child; or

(b) the taking or sending of a child out of Ontario,

(i) by a parent of the child for adoption by the spouse of the parent of the child, or

(ii) for placement of the child with a relative of the child for the purpose of adoption.

(5) Subsections (2) and (3) do not apply to the placement of a child by a society. Idem

(6) The Director shall forthwith after receiving a notice under subsection (3) obtain a report of a homestudy made by a person who, in the opinion of the Director or local director of a society, is qualified to make the homestudy of the person proposing to adopt the child. Homestudy

(7) The Director shall forthwith, after receiving the report of the results of the homestudy, approve the proposed placement for adoption or notify the adoption agency or the licensee under subsection 60 (5), as the case may be, and the person proposing to adopt the child of the Director's proposal to refuse approval of the placement and that the adoption agency or licensee and the person proposing to adopt the child are entitled to a hearing before the Board and the provisions of sections 6, 8, 10 and 11 of the *Children's Residential Services Act* shall apply with necessary modifications to a notice under this subsection to proceedings before the Board and to powers of the Board. Decision of Director, etc. R.S.O. 1980, c. 71

Supervision
of placement
by society

(8) Where the Director approves the proposed placement for adoption under subsection (7), the Director may direct a society, or in the case of a placement out of Ontario may arrange for a child protection agency recognized in the jurisdiction of the placement, to supervise the placement subject to such terms and conditions as the Director may prescribe.

Hearing

(9) Where the person proposing to adopt the child, the adoption agency or the licensee under subsection 60 (5), as the case may be, is dissatisfied with the terms and conditions prescribed by a Director under subsection (8), the person, the adoption agency or licensee, upon giving notice is entitled to a hearing before the Board and the provisions of sections 7, 8, 10 and 11 of the *Children's Residential Services Act* shall apply with necessary modifications to such notice to proceedings before the Board and to powers of the Board.

R.S.O. 1980,
c. 71

Powers of
Director
where no
hearing

(10) Where a person proposing to adopt the child, the adoption agency or the licensee under subsection 60 (5), as the case may be, does not require a hearing by the Board in accordance with subsection (7), the Director may carry out the proposal stated in the Director's notice under that subsection without a hearing. 1978, c. 85, s. 65.

Review by
Director

66. Notwithstanding subsection 69 (3), a Director, with or without the request of any person, may review the decision of any adoption agency or licensee under subsection 60 (5) to refuse to place a child with a person for the purpose of adoption by that person or to remove the child who has been placed with a person for the purpose of adoption and the Director may confirm the decision of the adoption agency or licensee, as the case may be, or rescind the decision and the Director may give such direction, make any further decision or take any further step that an adoption agency or licensee under subsection 60 (5) is authorized to make, give or take under this Act. 1978, c. 85, s. 66.

Prohibition
against
payments
for
adoptions

67.—(1) Subject to subsection (2), no person, whether before or after the birth of a child, shall make, give or receive or agree to make, give or receive a payment or reward for or in consideration of or in relation to,

- (a) the adoption or proposed adoption of the child under this Part;
- (b) the giving of consent or the signing of an instrument of consent to the adoption of the child under this Part;

- (c) the transfer of the custody or control of the child with a view to the adoption of the child under this Part; or
- (d) the conduct of negotiations or the making of arrangements with a view to the adoption of the child under this Part.

(2) Subsection (1) does not apply to the payment of expenses of ^{idem} an adoption agency or licensee under subsection 60 (5) or the payment of legal expenses in connection with an adoption or proposed adoption under this Part. 1978, c. 85, s. 67.

68. Every society shall endeavour to secure the adoption of Crown wards, having regard to the best interest of each Crown ward. 1978, c. 85, s. 68. ^{Duty of society to secure adoption}

69.—(1) In this section, “parent” means,

^{Interpre-}
tation

- (a) a guardian of a child appointed at law;
- (b) a mother of a child;
- (c) a person,
 - (i) who has within twelve months immediately prior to a child being placed for adoption,
 - (A) acknowledged that he is the father of the child and has voluntarily provided for the child’s care and support, or
 - (B) demonstrated a settled intention to treat the child as a child of the person’s family,
 - (ii) who has made a written acknowledgment of the fact of his parentage to the adoption agency or licensee under subsection 60 (5) placing a child for adoption, as the case may be,
 - (iii) who by order of a court of competent jurisdiction or by a written agreement is under a legal duty to provide for a child or has been granted custody of or access to a child,
 - (iv) who has filed under section 12 of the *Children’s Law Reform Act* a statutory declaration affirming that he is the father of a child, ^{R.S.O. 1980, c. 68}
 - (v) who is in one of the circumstances referred to in paragraphs 1 to 6 of subsection 8 (1) of the *Chil-*

dren's Law Reform Act unless it is proven on a balance of probabilities that the person is not a parent of the child,

but does not include the Crown, a society or foster parent of a child. 1979, c. 98, s. 5 (1).

Consent

(2) An order for the adoption of a child under eighteen years of age and who has not been married shall be made only with the written consent, given after the child is seven days old, of every person who is a parent or who has lawful custody or control of the child, but any person who has given his or her consent may cancel it by a document in writing to that effect within twenty-one days after the consent is given.

Rights and responsibilities

(3) Upon the giving of all the consents required under subsection (2), all the rights and responsibilities of a legal guardian of the child for the purpose of the child's care, custody and control belonging to the person or persons giving the consents shall, where the child is being placed for adoption by an adoption agency and, subject to subsection (11), transfer to, be vested in and be assumed by the adoption agency so long as the consents remain in force and until an adoption order is made.

Idem

(4) Notwithstanding subsection (3), the rights and responsibilities of a legal guardian of the child shall not transfer to an adoption agency until the twenty-one day period for cancellation of the consent given under subsection (2) has expired.

Idem,
Crown ward

(5) An order for the adoption of a child who is a Crown ward shall be made only with the written consent of a Director, in which case no other consent, except a consent required under subsection (6), is required.

Idem,
child and
where
married,
spouse of
child

(6) An order for the adoption of a child who is seven or more years of age shall be made only with the written consent of the child, and, where the child is married, with the written consent of the spouse except that the court may dispense with the consent of the child if the court is satisfied that, having regard to all the circumstances of the case, the consent would not be appropriate. 1978, c. 85, s. 69 (2-6).

Where
consent
not
given

(7) Where a consent required by this section has not been given, the court may dispense with the requirement if, having regard to all the circumstances of the case, the court is satisfied that it is in the best interests of the child that the requirement be dispensed with. 1978, c. 85, s. 69 (7); 1979, c. 98, s. 5 (2).

Notice

(8) The court shall not dispense with a consent required under this section, except a consent required under sub-

section (6), until the court is satisfied that the person from whom the consent is required has had notice of the proposed adoption and notice of the application to dispense with the consent, or that reasonable effort has been made, in the opinion of the court, to cause such person to be notified. 1978, c. 85, s. 69 (8); 1979, c. 98, s. 5 (3).

(9) Where a consent required by this section has been given, it may after the twenty-one days referred to in subsection (2) and subject to subsections (10) and (11), be withdrawn by the person giving it only if, having regard to all the circumstances of the case, the court is satisfied that it is in the best interests of the child that the consent be withdrawn.

Where
consent
given

(10) Subject to subsection (11), an application to the court for the withdrawal of a consent given under subsection (2) shall not be made after the child has been placed for adoption by an adoption agency or licensee under subsection 60 (5) so long as the child remains in the care of the person with whom the child was placed for adoption.

Consent
not to be
withdrawn

(11) Where all the consents required under subsection (2) have been given and, after the expiration of one year from the giving of the consents under subsection (2) or from a review of the child's status under this subsection, whichever is later, whether or not the child has been placed for adoption, an order for the adoption of the child has not been made, the adoption agency or licensee under subsection 60 (5), as the case may be, shall notify a Director and the Director or any person authorized by the Director shall review the status of the child and after such review the Director or such person, having regard to the best interests of the child, may,

Review
by
Director

- (a) where the adoption agency or licensee is not a society, direct the adoption agency or licensee to place the child into the care and custody of a society designated by the Director;
- (b) where the child is in the care, custody and control of a society, direct the society to bring the child before the court under Part II to determine whether an order under section 30 should be made and thereafter the provisions of sections 28 to 36 apply, with necessary modifications, to the child;
- (c) where the child is in the care of the person with whom the child has been placed for adoption, confirm the placement of the child with that person or give such direction, make any further decision

or take any further step relating to the further placement of the child that the adoption agency or licensee is authorized to make, give or take under this Act;

- (d) where the child leaves or is removed from the care of the person with whom the child has been placed for adoption, give such direction, make any further decision or take any further step relating to the further placement of the child that the adoption agency or licensee is authorized to make, give or take under this Act; or
- (e) direct the adoption agency or licensee to return the child to the care of the person giving the consent under subsection (2) where that person had charge of the child at the time the consent was given and has agreed to receive the child back into care, and upon giving such direction, every consent to the adoption given under subsection (2) shall be deemed to be withdrawn.

Application
to judge

(12) Where an application is made to the court under Part II pursuant to clause (11) (b), the child shall be brought before the court as if the child had been apprehended pursuant to section 21 or 22 and the child may be dealt with by the court in the same manner as though the child were a child apparently in need of protection.

Consent not
invalid by
reason of
age

(13) No consent required by this section is invalid by reason only of the fact that the person giving it is under eighteen years of age except that, in the case of a consent required under subsection (2) given by a person under eighteen years of age the consent is not valid unless the Official Guardian is satisfied that the consent reflects the true informed wishes of the person.

Interference
with
child, etc.

(14) Subject to a direction of a Director under subsection (11) to the child, no person shall,

- (a) visit, write to, telephone to, communicate with, remove or attempt to remove from any place, or interfere with a child who has been placed for adoption by an adoption agency or licensee under subsection 60 (5); or
- (b) visit, write to, telephone to or communicate with, for the purpose of interfering with the child, a person or persons with whom the child has been placed for adoption,

after the giving of all the consents under subsection (2), and before an order for the adoption of the child has been made, without the consent in writing of the adoption agency or licensee, as the case may be.

(15) Upon the placement of a child under eighteen years of age by an adoption agency or licensee under subsection 60 (5) for the purpose of adoption, and upon the giving of all the consents required under subsection (2), any outstanding order of access with respect to the child, other than an order of access made under this Act, shall terminate. 1978, c. 85, s. 69 (9-15). Termination
of access
order

(16) No person,

Entitle-
ment to
notice

(a) who has consented to an order for adoption in accordance with this Act;

(b) whose consent a court has dispensed with in accordance with this Act; or

(c) who is a parent of a Crown ward placed for adoption,

is entitled to receive notice of the proposed adoption. 1979, c. 98, s. 5 (4).

70. An affidavit of execution in the prescribed form shall be attached to every consent required under this Part and to every cancellation under subsection 69 (2). 1978, c. 85, s. 70. Affidavit of
execution

71.—(1) The court in the county or district in which either the applicant or the child sought to be adopted resides at the time the application for an adoption order is filed has jurisdiction to make the order. Jurisdiction
of courts

(2) An application for an adoption order shall be heard and determined *in camera*. Application
to be heard
in camera

(3) Where the court referred to in subsection (1) is satisfied that there is preponderance of convenience in favour of hearing the application for adoption in another county or district, the court may, at any time after the application is made and before the hearing of the application, transfer the proceedings to a court in any other county or district. Transfer of
proceedings

Affidavit
evidence

(4) The court may accept evidence by affidavit but the affidavit shall be confined to facts within the personal knowledge of the person making the affidavit.

Stale
applications

(5) Where an application for an adoption order is not heard by the court within the twelve months next following the signing of the application by the applicant, it shall not be proceeded with unless the court otherwise directs, but another application may be made in its stead.

Guardian
ad litem

(6) For the purpose of an application for an order for the adoption of a child under eighteen years of age, the court may appoint a person to act as the guardian *ad litem* of the child before or upon the hearing of the application if in the opinion of the court such appointment is required to protect the legal interests of the child in the proceedings and the court may make such order as to the costs of the guardian *ad litem* as the court deems appropriate in the circumstances. 1978, c. 85, s. 71.

When order
may be
made

72. The court may make an order for the adoption of any child resident in Ontario upon application therefor being made in the prescribed manner by a person resident in Ontario. 1978, c. 85, s. 72.

Where order
not to be
made

73.—(1) The court shall not make an adoption order for a child who is under eighteen years of age and who has not been married unless the child has been placed with an applicant for adoption by an adoption agency or licensee under subsection 60 (5).

Application

(2) Subsection (1) does not apply to an application for adoption of a child,

(a) by a relative of the child; or

(b) by the spouse of the child's parent. 1978, c. 85, s. 73.

Where order
not to be
made

74.—(1) The court shall not make an adoption order,

(a) where the applicant is under eighteen years of age or, in the case of a joint application by a husband and wife, where the husband or wife is under eighteen years of age;

- (b) where the applicant is unmarried, a widow, a widower, a divorced person or living apart from his or her spouse; or
- (c) where the child being adopted is eighteen or more years of age or is under eighteen years of age and has been married,

unless the court is satisfied that there are special circumstances that justify the making of the order. 1978, c. 85, s. 74 (1).

(2) An order for adoption shall not be made where the court has ^{Idem} made a decision under,

- (a) subsection 69 (7) dispensing with the requirement of a consent; or
- (b) subsection 69 (9) refusing an application for withdrawal of a consent,

until

- (c) any appeal under subsection 84 (2) or (3), as the case may be, in respect of the decision has been disposed of; or
- (d) the time for commencing an appeal under subsection 84 (5) in respect of the decision has expired,

whichever is the later. 1979, c. 98, s. 7.

(3) Subsection (1) does not apply to an application for ^{Application of subs. (1)} adoption of a child by a spouse of a parent of the child.

(4) Except in the case of a joint application by a husband and wife, an order shall not be made for the adoption of a ^{Adoption by more than one person} child by more than one person.

(5) An adoption order shall not be made upon the applica- ^{Consent of adopting spouse} tion of a husband or wife without the written consent of the spouse, provided that the court may dispense with such consent where the spouses are living apart and where the court considers it in the best interests of the child that the consent be dispensed with. 1978, c. 85, s. 74 (3-5).

75.—(1) Where an application is made to the court for ^{Statement of Director} the adoption of a child who is under eighteen years of age and who has not been married, a Director shall file with

the court prior to the hearing of the application a statement in writing,

- (a) that the child has resided for six months or more with the applicant and, having regard to the best interests of the child, recommending whether or not, in the opinion of the Director, an order for the adoption of the child should be made; or
- (b) that the applicant is an appropriate person to adopt the child and recommending that for reasons set out in the statement it is in the best interests of the child that the period of residence be dispensed with and an order for the adoption of the child should be made,

and the Director, in making a recommendation under clause (a) or (b), may bring to the attention of the court any additional circumstances of the case that, in the Director's opinion, the court may wish to take into account before making or refusing the order.

Filing of
notice

(2) Where a Director recommends that an adoption order should not be made, the Director shall file a copy of the statement under subsection (1) with the court at least thirty days prior to the hearing and the Director shall cause a copy of the statement to be served upon the applicant within seven days after the Director filed the statement with the court.

Statement
of local
director

(3) In the case of a child referred to in subsection (1) who has been placed for adoption by a society, the statement referred to in clause (a) of that subsection is sufficient if it is made by the local director.

Report

(4) A Director or local director before making a recommendation under subsection (1) shall obtain a report on the adjustment of the child in the home of the applicant made by the society with jurisdiction in the area where the applicant resides, or by such other person who has received prior approval from the Director or local director, as the case may be.

Application

(5) Subsections (1) and (4) do not apply to an application for adoption of a child,

(a) by a relative of the child; or

(b) by the spouse of the child's parent,

unless the court hearing the application so directs. 1978, c. 85, s. 75.

76. The court before making an adoption order shall be satisfied, Duty of court

- (a) that every person who has given a consent under this Part understands the nature and effect of the adoption order; and
- (b) that the order will be in the best interests of the child. 1978, c. 85, s. 76.

77. Upon the hearing of an application for adoption, where the child is seven or more years of age, the court shall inquire into the capacity of the child to appreciate the nature of the application and shall, where practicable, hear the child. 1978, c. 85, s. 77. Procedure on application

78.—(1) Subject to subsection (3), when making an adoption order, the court may order that the adopted child, Surname

- (a) retain the surname by which the child was known immediately prior to the adoption; or
- (b) assume the surname of either or both of the adopting parents.

(2) Subject to subsection (3), in an adoption order, the court may in its discretion change the given name or names of the child as the adopting parent desires, and thereafter the adopted child is entitled to and is to be known by the name or names so given. Given names

(3) In the case of a child fourteen or more years of age, the court shall not make an order under this section changing the given name or the surname of the child without the written consent of the child. 1978, c. 85, s. 78. Consent required

79. If the adopted child was born outside marriage that fact shall not appear upon the adoption order. 1978, c. 85, s. 79. Born outside marriage not to appear

80.—(1) Subject to subsection 81 (6), the documents used upon an application for an adoption order shall be sealed up and filed in the office of the court by the proper officer of the court and shall not be open for inspection except upon an order of the court or the written direction of a Director. Papers to be sealed up

(2) Within thirty days after the making of an adoption order, the proper officer of the court shall cause to be made a sufficient number of certified copies thereof under the seal of the proper certifying authority and shall transmit, Transmission of order

- (a) the original order to the adopting parent;
- (b) one certified copy to a Director;
- (c) one certified copy to the Registrar General, or, where the adopted child was born outside Ontario, two certified copies to the Registrar General; and
- (d) where the adopted child is a member of a band within the meaning of the *Indian Act* (Canada), one certified copy to the Registrar under that Act. 1978, c. 85, s. 80.

R.S.C. 1970,
c. I-6

Interpre-
tation

81.—(1) In this section, “Director” means an employee of the Ministry appointed by the Minister for the purposes of this section.

Voluntary
disclosure
registry

(2) An adopted child who is eighteen or more years of age and a person who was a parent of an adopted child at the time of the child's birth where the adoption took place in Ontario in each instance may apply to a society to be registered in a voluntary disclosure registry that shall be maintained by the Director.

Society
to notify
Director

(3) Every society that receives an application under subsection (2) shall forthwith forward a copy of the application to the Director who shall enter the applicant's name in the voluntary disclosure registry.

Information
confidential

(4) Notwithstanding the provisions of any other Act, no person shall inspect, remove, disclose, transmit or alter or permit the inspection, removal, disclosure, transmission or alteration of information maintained in the voluntary disclosure registry established under subsection (2), except with the written permission of the Director.

Director to
determine
if both
parent and
child are
registered

(5) The Director shall upon entering an applicant's name in the voluntary disclosure registry examine the registry to determine,

- (a) where the applicant is an adopted child, if a person who was the child's parent at the time of the child's birth is named in the registry; or
- (b) where the applicant is a person who was a parent of an adopted child at the time of the child's birth, if the adopted child is named in the registry.

Idem

(6) Where the Director,

- (a) determines that both an adopted child and a person who was the child's parent at the time of the

child's birth are named in the voluntary disclosure registry;

- (b) obtains from any living person who was the parent of the child after an adoption order with respect to the child was made, consent to the disclosure of information pursuant to this section; and
- (c) obtains a confirmation from each of the parties referred to in clause (a) that they agree to the disclosure of information pursuant to this section,

the Director shall forthwith forward to the appropriate society the information contained in,

(d) the documents referred to in subsection 80 (1); and

(e) the voluntary disclosure registry,

with respect to the adopted child and the person who was the child's parent and the society shall provide the information to the adopted child and the person who was the child's parent.

(7) Every society shall provide guidance and counselling to persons who may be registered in the voluntary disclosure registry referred to in subsection (2). 1978, c. 85, s. 81.

Society to
provide
guidance and
counselling

82.—(1) Upon an application for an adoption order, the court, after considering any recommendation made by a Director, may postpone the determination of the application and make an interim order giving the custody of the child sought to be adopted to the applicant for a period not exceeding one year by way of a probationary period upon such terms as regards provision for the maintenance and education and supervision of the welfare of the child and otherwise as the court thinks fit.

Interim
order

(2) An interim custody order is not an adoption order.

Idem

(3) All consents required for an adoption order are necessary for an interim custody order, subject to a like power in the court to dispense with any such consent requirement.

Consents

(4) Where an applicant has obtained an interim custody order and subsequently takes up residence outside Ontario, the court may nevertheless make the adoption order applied

Residence
outside
Ontario

for if a Director makes a recommendation in favour of the order under section 75. 1978, c. 85, s. 82.

Order
final

83. Subject to section 84, an order granting an adoption shall be final and irrevocable and shall not be questioned or reviewed in any court of competent jurisdiction by way of injunction, declaratory judgment, *certiorari*, *mandamus*, prohibition, *habeas corpus* or application for judicial review. 1978, c. 85, s. 83.

Appeal

84.—(1) An applicant for an adoption order, or a Director or the local director, as the case may be, who has filed a statement pursuant to subsection 75 (1), may appeal to the county or district court of the county or district in which the decision was made from the decision granting or refusing an adoption order.

Idem

(2) An applicant for an adoption order, a Director, or the local director, as the case may be, who has filed a statement pursuant to subsection 75 (1), or a person who has given consent under subsection 69 (2) may appeal to the county or district court of the county or district in which the decision was made from the decision of the court made pursuant to subsection 69 (9), granting or refusing the withdrawal of a consent to the adoption.

Idem

(3) An applicant for an adoption order, a Director, or the local director, as the case may be, who has filed a statement pursuant to subsection 75 (1), a person who has given consent under subsection 69 (2) or a person with respect to whom a consent required under subsection 69 (2) has been dispensed with may appeal to the county or district court of the county or district in which the decision was made from the decision of the court made pursuant to subsection 69 (7), granting or refusing the dispensing of the requirement of the giving of consent.

Appeal
in camera

(4) An appeal under subsection (1), (2) or (3) shall be heard *in camera* and notice of the appeal shall be served on a Director.

Notice

(5) A notice of appeal under subsection (1), (2) or (3) shall be served within thirty days of the making of the decision being appealed and no extension of the time for serving the notice or making the appeal shall be granted. 1978, c. 85, s. 84.

Effect of
order on
previous
adoption

85. An adoption order or an interim custody order may be made in respect of a child who has previously been the subject of an adoption order, and the adopting parent

under the adoption order last previously made shall, if living, be deemed to be the parent of the child for the purposes of this Part. 1978, c. 85, s. 85.

86.—(1) For all purposes, as of the date of the making of an adoption order, Status of adopted child

- (a) the adopted child becomes the child of the adopting parent and the adopting parent becomes the parent of the adopted child; and
- (b) the adopted child ceases to be the child of the person who was his or her parent before the adoption order was made and that person ceases to be the parent of the adopted child, except where the person is the spouse of the adopting parent,

as if the adopted child had been born to the adopting parent and all the rights and responsibilities of a legal guardian of the child that have vested in any adoption agency pursuant to subsection 69 (3) are terminated.

(2) The relationship to one another of all persons whether the adopted child, the adopting parent, the kindred of the adopting parent, the parent before the adoption order was made, the kindred of that former parent or any other person shall, for all purposes, be determined in accordance with subsection (1). Application of subs. (1) to relationship of persons

(3) In any will or other document, whether heretofore or hereafter in existence, and whether or not the maker of the will or other document was alive at the date of the coming into force of this section, unless the contrary is expressed, a reference to a person or group or class of persons described in terms of relationship by blood or marriage to another person shall be deemed to refer to or include, as the case may be, a person who comes within the description as a result of the person's own adoption or the adoption of another person. References on will or other document

(4) This section applies and shall be deemed to have always applied with respect to any adoption made under any legislation heretofore in force, but not so as to affect, Application of section

- (a) any interest in property or right of the adopted child that has indefeasibly vested before the date of the making of an adoption order; and

(b) any interest in property or right that has indefeasibly vested before the coming into force of this section.

Exception

(5) Subsections (1) and (2) do not apply for the purposes of the laws relating to incest and the prohibited degrees of marriage to remove any person from a relationship in consanguinity that, but for this section, would have existed. 1978, c. 85, s. 86.

Effect of
adoptions
under other
laws

87.—(1) An adoption effected according to the law of any other province or territory of Canada or of any other state or country or part thereof, before or after the commencement of this section, has the same effect in Ontario as an adoption under this Act.

Idem

(2) Where, as a requirement of the making of an order or orders of a court of competent jurisdiction in any other province or territory of Canada or in any other state or country or part thereof, that effects an adoption of a child according to the laws of the jurisdiction where the order or orders were made, any statement, consent, declaration or similar document in writing is made by a person, organization, province, state, country or legal representative of any of them, in whom the rights and responsibilities of guardianship in respect of the child have been legally vested, such statement, consent, declaration or similar document in writing shall for all purposes in Ontario have the same force and effect as if made under this Act. 1978, c. 85, s. 87.

Subsidies

88. Where, in the opinion of the Minister, the best interests of a child may be served by granting a subsidy to the adopting parent of the child, the Minister may out of moneys appropriated therefor by the Legislature authorize payments, from time to time and upon such terms and conditions as the Minister may prescribe, of such amounts as are necessary for such purposes. 1978, c. 85, s. 88.

PART IV

GENERAL

Regulations

89.—(1) The Lieutenant Governor in Council may make regulations,

1. prescribing additional powers and duties of a Director;
2. prescribing the records that shall be kept by societies and the returns and reports that shall be made by societies under this Act;

3. requiring societies to provide such information and to make such returns and reports as are prescribed and prescribing the persons or agencies to whom such information and returns are to be given and reports are to be made;
4. governing the qualifications of persons or classes of persons employed by or involved in the management and operation of societies;
5. prescribing provisions to be included in the by-laws of societies;
6. defining "net expenditures";
7. prescribing expenses that may be charged for services under this Act and classes of such expenses and the terms and conditions under which any such expense or class thereof may be charged;
8. prescribing the manner of determining the proportion of an approved estimate that is referable to each municipality in the area served by a society for the purposes of subsection 8 (6);
9. prescribing additional powers and duties of a child welfare review committee appointed under section 12;
10. determining the amounts of payments under subsections 13 (1) and (2) and prescribing classes of such payments and the terms and conditions under which any such payment or class thereof may be paid;
11. providing for payments to reimburse a municipality for all or any part of any increase in its financial obligations to a society under this Act and prescribing classes of such payments and the terms and conditions under which any such payment or class thereof may be paid;
12. determining the costs to municipalities and to societies for the purposes of section 14;
13. determining the amounts of payments to be made to municipalities and societies under section 14 and providing for classes of such payments and the terms and conditions under which such payments or class or classes thereof may be made;

14. prescribing the times and manner of payment of capital grants under section 14;
15. prescribing "special needs" of children,
 - i. for which joint facilities may be established under section 16, and
 - ii. for the purpose of subsection 25 (4);
16. prescribing terms and conditions to be included in any agreement or class of agreement entered into under section 25;
17. for the purposes of subsections 25 (9) and (11), prescribing the manner of determining the nature and degree of a developmental handicap;
18. governing the construction, alteration, renovation, extension and furnishing and equipping of homes operated or supervised by societies and providing residential care for children, other than children's residences under the *Children's Residential Services Act*;
19. prescribing the information that shall be recorded in the register established under subsection 52 (3);
20. prescribing the period or periods of time that information or any class thereof shall be maintained in the register established under subsection 52 (3) and providing for the expunging of information or any class thereof from the register;
21. prescribing the practice and procedure of the court under this Act or any Part thereof;
22. fixing fees, costs, charges and expenses payable on proceedings under this Act or any Part thereof and providing for dispensing with the payment of such fees, costs, charges and expenses where, owing to lack of means or for any other reason, the court considers such action advisable;
23. prescribing rules and standards governing the establishment and operation of adoption agencies;
24. governing the issuance, renewal and expiration of a licence required under section 60 and prescribing

- terms and conditions for the issuance, renewal and expiration of licences;
25. prescribing the fees payable by an applicant for a licence or renewal thereof;
 26. providing for the inspection of books of account and other records of adoption agencies or licensees under subsection 60 (5);
 27. governing the qualifications of persons or classes of persons employed by or involved in the management and operation of adoption agencies or licensees under subsection 60 (5);
 28. requiring adoption agencies or licensees under subsection 60 (5) to provide such information and to make such returns and reports as are prescribed and prescribing persons or agencies to whom such information and returns are to be given and reports are to be made;
 29. requiring the bonding of,
 - i. adoption agencies or licensees under subsection 60 (5), and
 - ii. the employees of adoption agencies or licensees under subsection 60 (5),or any class thereof, and providing for the forfeiture of the bond and the disposition of the proceeds thereof;
 30. prescribing the form and term of bonds that are required and the collateral security that may be required with the bonds;
 31. prescribing the records that shall be kept by adoption agencies or licensees under subsection 60 (5) and the returns and reports that shall be made by adoption agencies or licensees under this Act;
 32. prescribing states and countries for the purposes of section 58;
 33. prescribing forms and providing for their use;
 34. prescribing the practices and procedures on appeals to the county or district court under sections 43 and 84;

35. prescribing a method of delivering, filing or serving any notice or class of notice required to be delivered, filed or served under this Act. 1978, c. 85, s. 89 (1); 1979, c. 98, s. 8.

Idem

- (2) The Minister shall prescribe,

(a) standards of services relating to the purposes set out in subsection 6 (2); and

(b) procedures and practices to be followed by societies. 1978, c. 85, s. 89 (2).

Inter-provincial agreements

90. The Minister, with the approval of the Lieutenant Governor in Council, may on behalf of the Government of Ontario make agreements with the Crown in right of Canada and with the Crown in right of any other province of Canada respecting services to or the care or protection of children. 1978, c. 85, s. 90.

Service

91.—(1) Unless otherwise provided for in this Act or the regulations, any notice or order required to be given, delivered, filed or served under this Act or the regulations is sufficiently given, delivered, filed or served if delivered personally or sent by registered mail addressed to the person to whom delivery or service is required to be made at the person's last known address.

Idem

(2) Where service is made by mail, the service shall be deemed to be made on the tenth day after the day of mailing unless the person on whom service is being made establishes that the person did not receive it or did not, acting in good faith, through absence, accident, illness or other cause beyond the person's control, receive the notice or order until a later date.

Idem

(3) Where any notice is required to be given, delivered, filed or served on a Director under this Act or the regulations or a certified copy of an order is required to be transmitted to a Director under clause 80 (2) (b) such notice or certified copy is sufficiently given, delivered, filed, served or transmitted, as the case may be, on or to a Director if the notice or certified copy is given, delivered, filed, served or transmitted on or to any of the Directors appointed pursuant to subsection 2 (1). 1978, c. 85, s. 91.

Reference to parent

92. Except for section 25, a reference in this Act or the regulations to "a parent" or "the parent" shall be deemed to be a reference to every parent of the child unless the context otherwise requires. 1978, c. 85, s. 92.

93. Where any notice required in proceedings under this Act has not been given, the court may proceed to hear or dispose of the matter as if such notice had been given where the court is satisfied that reasonable effort has been made to cause such notice to be given. 1978, c. 85, s. 93.

Giving
of notice

94.—(1) Every person who,

Offences

- (a) knowingly furnishes false information in any application under this Act or in any statement, report or return required to be furnished under this Act or the regulations;
- (b) fails to comply with an order of the court under subsection 35 (4);
- (c) fails to comply with an order made by a Director under subsection 52 (17);
- (d) hinders, obstructs or interferes with or attempts to hinder, obstruct or interfere with any person acting in the performance of the person's duties under section 21, 22 or 23;
- (e) is a parent and who permits his or her child to contravene any provision of subsection 52 (1) or (2);
- (f) contravenes any provision of,
 - (i) section 46,
 - (ii) subsection 49 (2),
 - (iii) subsection 50 (3),
 - (iv) subsection 52 (4), (7) or (8),
 - (v) subsection 53 (1),
 - (vi) subsection 69 (14),

and every director, officer or employee of a corporation who knowingly concurs in such contravention by the corporation or in such furnishing of false information, failure, hindrance, obstruction or interference or attempted hindrance, obstruction or interference or contravention by the corporation is guilty of an offence and on conviction by the court is liable to a fine of not more than \$1,000 or, except for a contravention of subsection 49 (2), to imprisonment for a term of not more than one year, or to both.

Idem

(2) Every person who contravenes the provisions of,

(a) subsection 47 (2); or

(b) subsection 65 (1) or (2),

and every director, officer or employee of a corporation who knowingly concurs in such contravention by the corporation is guilty of an offence and on conviction by the court is liable to a fine of not more than \$2,000 or to imprisonment for a term of not more than two years, or to both.

Idem

(3) Every person who contravenes the provisions of subsection 48 (1) and every director, officer or employee of a corporation who knowingly concurs in such contravention by the corporation is guilty of an offence and on conviction by the court is liable to a fine of not more than \$1,000 or to imprisonment for a term of not more than one year, or to both, and for any subsequent offence to a fine of not more than \$2,000 or to imprisonment for a term of not more than two years, or to both.

Idem

(4) Every person who contravenes the provisions of subsection 60 (1) and every director, officer or employee of a corporation who knowingly concurs in such contravention by the corporation is guilty of an offence and on conviction by the court is liable to a fine of not more than \$5,000 for each day on which such offence continues or to imprisonment for a term of not more than three years, or to both.

Idem

(5) Every person who contravenes the provisions of subsection 67 (1) and every director, officer or employee of a corporation who knowingly concurs in such contravention by the corporation is guilty of an offence and on conviction by the court is liable to a fine of not more than \$5,000 or to imprisonment for a term of not more than three years, or to both.

Idem

(6) Every person who contravenes subsection 57 (7), and every director, officer or employee of a corporation who knowingly concurs in such a contravention by the corporation, is guilty of an offence and on conviction by the court is liable to a fine of not more than \$10,000, or to imprisonment for a term of not more than three years, or to both. 1978, c. 85, s. 94.

Injunction
proceedings

95.—(1) The society having the care, custody or supervision of the child may apply to the Supreme Court by originating notice for an order enjoining any person acting in contravention of section 46, and the Supreme Court in its

discretion may make such an order and the order may be entered and enforced in the same manner as any other order or judgment of the Supreme Court.

(2) The adoption agency that placed the child for adoption may ^{Idem} apply to the Supreme Court by originating notice for an order enjoining any person acting in contravention of subsection 69 (14), and the Supreme Court in its discretion may make such an order and the order may be entered and enforced in the same manner as any other order or judgment of the Supreme Court.

(3) A Director may apply to the Supreme Court by originating ^{Idem} notice for an order enjoining any person acting in contravention of subsection 60 (1), and the Supreme Court in its discretion may make such an order and the order may be entered and enforced in the same manner as any other order or judgement of the Supreme Court.

(4) Any person may apply to the Supreme Court for an order ^{Idem} varying or discharging any order made under subsection (1), (2) or (3). 1978, c. 85, s. 95.

CHAPTER 67

Children's Institutions Act

1. In this Act,

Interpre-
tation

- (a) "approved children's institution" means a children's institution approved under section 3;
- (b) "approved corporation" means a corporation approved under section 2;
- (c) "child" means a person under eighteen years of age;
- (d) "children's institution" means all or any part of a building or buildings maintained and operated by an approved corporation for children and other persons requiring sheltered, specialized or group care but does not include,
- (i) a charitable institution under the *Charitable Institutions Act*, R.S.O. 1980,
c. 64
 - (ii) a place of safety or a receiving home within the meaning of Part II of the *Child Welfare Act*, R.S.O. 1980,
c. 66
 - (iii) a day nursery established and operated under the *Day Nurseries Act*, R.S.O. 1980,
c. 111
 - (iv) a children's mental health centre under the *Children's Mental Health Services Act*, R.S.O. 1980,
c. 69
 - (v) a home for retarded persons under the *Homes for Retarded Persons Act*, R.S.O. 1980,
c. 201
 - (vi) an institution under the *Mental Hospitals Act*, R.S.O. 1980,
c. 263
 - (vii) a private hospital under the *Private Hospitals Act*, R.S.O. 1980,
c. 389
 - (viii) a sanitarium under the *Private Sanitaria Act*, R.S.O. 1980,
c. 391

R.S.O. 1980,
c. 410

(ix) a hospital under the *Public Hospitals Act*,

R.S.O. 1980,
c. 463

(x) a sanatorium under the *Sanatoria for Consumptives Act*;

(e) "Minister" means the Minister of Community and Social Services;

(f) "regulations" means the regulations made under this Act. 1978, c. 69, s. 1.

Approval of
corporations
R.S.O. 1980,
c. 95

2.—(1) Where the Minister is satisfied that any corporation without share capital having objects of a charitable nature to which Part III of the *Corporations Act* applies or that is incorporated under a general or special Act of the Parliament of Canada is, with financial assistance under this Act and the regulations, financially capable of establishing, maintaining and operating a children's institution and that its affairs are carried on under competent management in good faith for charitable purposes, he may approve such corporation for the purposes of this Act and the regulations.

Funding of
corporations

(2) Where the Minister intends to approve a corporation under subsection (1), the Minister may enter into an agreement with the corporation for the establishment of a children's institution upon such terms and conditions as may be agreed and may direct payment of expenditures as are necessary for the purpose. 1978, c. 69, s. 2.

Approval of
children's
institutions

3.—(1) Where the Minister is satisfied that all or any part of a building or buildings is suitable for providing accommodation as a children's institution in accordance with this Act and the regulations and that there is a need for a children's institution in the area served or to be served by the institution, the Minister may approve all or any part of the building or buildings, as the case may be, as a children's institution and assistance may be given under this Act and the regulations for the maintenance and operation of the children's institution.

Effective
date of
approval

(2) An approval given under subsection (1) or under section 2 may take effect on any date fixed by the Minister that is prior to the date on which the approval is given, but in no case shall the date upon which the approval under subsection (1) takes effect precede the date on which the approval given under section 2 to the corporation maintaining and operating the children's institution takes effect. 1978, c. 69, s. 3.

4. The by-laws of every approved corporation shall contain such provisions as the regulations prescribe and a certified copy of the by-laws and any amendment thereto shall be filed with the Minister forthwith after they are made. 1978, c. 69, s. 4. By-laws

5.—(1) Where the Minister has approved the erection of a new building, an addition to an existing building, the purchase or other acquisition of an existing building, the structural alteration or the renovation or the furnishing and equipping of a building by an approved corporation for use in whole or in part as a children's institution, the Minister may direct payment to the approved corporation out of moneys appropriated therefor by the Legislature of an amount determined in accordance with the regulations, towards the cost of the new building, addition, acquisition, structural alteration, renovation or furnishing and equipping, as the case may be, that is applicable to the children's institution. Capital payments

(2) An amount payable to an approved corporation under this section shall be paid at the time or times and in the manner as is prescribed by the regulations. 1978, c. 69, s. 5. Time and manner of payment

6. There shall be paid to every approved corporation, an amount determined in accordance with the regulations towards the cost incurred for services provided by the corporation for children and other persons or classes of persons prescribed by the regulations. 1978, c. 69, s. 6. Payment for operating and maintenance costs

7.—(1) The Minister may designate in writing any person to be a program adviser with such powers and duties for the purposes of this Act and the regulations and subject to such limitations, restrictions, conditions and requirements as the Minister may set out in the designation. Program adviser

(2) The remuneration and expenses of any person appointed under subsection (1) who is not in the employ of the public service of Ontario shall be fixed by the Minister and shall be paid out of the moneys appropriated therefor by the Legislature. Remuneration and expenses

(3) A program adviser may, at all reasonable times and upon producing proper identification, enter any children's institution and inspect the facilities, the services provided and the books of account and other records therein. Powers of program advisers

(4) Every person when requested so to do by a program adviser shall permit the entry and inspection by the pro- Access for inspections

gram adviser of the premises referred to in subsection (3) and shall produce and permit inspection of the books of account and other records therein and supply extracts therefrom.

Obstruct-
ing
inspection

(5) No person shall hinder or obstruct a program adviser in the performance of the program adviser's duties or refuse to permit the program adviser to carry out such duties or refuse to furnish the program adviser with information or furnish the program adviser with false information. 1978, c. 69, s. 7.

Suspension
and
revocation
of
approvals

8.—(1) Subject to this section, any approval given under section 2 or 3 may be suspended or revoked by the Minister where,

(a) any director, officer or employee of the approved corporation has contravened or knowingly permitted any person under the control and direction of the director, officer or employee, as the case may be, to contravene any provision of this Act or the regulations; or

(b) the approval would be refused if application were being made for it in the first instance.

Notice of
proposal
to suspend
or revoke

(2) Subject to subsection (10), where the Minister proposes to suspend or revoke an approval given under section 2 or 3, the Minister shall, except where the approval is suspended or revoked with the consent of the approved corporation, serve notice of the Minister's proposal to suspend or revoke the approval, together with written reasons therefor, on the approved corporation.

Notice
requiring
hearing

(3) A notice under subsection (2) shall inform the approved corporation that it is entitled to a hearing under this section if the corporation mails or delivers, within fifteen days after the notice under subsection (2) is served on it, notice in writing, to the Minister requiring a hearing and the corporation may so require a hearing.

Powers of
Minister
where no
hearing

(4) Where the approved corporation does not require a hearing under this section in accordance with subsection (5), the Minister may carry out the proposal stated in the Minister's notice under subsection (2) without a hearing.

Hearing

(5) Where the approved corporation requires a hearing under subsection (3), the Minister shall cause a hearing to be held to determine whether the approval should be suspended or revoked.

(6) Where the Minister causes a hearing to be held, the hearing shall be held by a person or persons appointed by the Minister other than a person or persons in the employment of the Ministry. Idem

(7) Sections 4 to 16 and 21 to 24 of the *Statutory Powers Procedure Act* apply with respect to a hearing under this section. Application of R.S.O. 1980, c. 484

(8) The person or persons holding a hearing under this section shall, at the conclusion of the hearing, make a report to the Minister setting out, Report to Minister

(a) the findings of fact and any information or knowledge used by the person or persons in making any recommendations, any conclusions of law arrived at relevant to the recommendations; and

(b) the recommendations of the person or persons as to the suspension or revocation of the approval,

and shall send a copy of the report to the persons affected by the report.

(9) After considering a report made under this section, the Minister may suspend or revoke the approval to which the report relates and shall give notice of the Minister's decision to the persons affected, specifying the reasons therefor. Decision of Minister

(10) Notwithstanding anything in this section, the Minister, by notice to the persons affected and without a hearing, may provisionally suspend an approval given under this Act where the continuation of operations in accordance with the approval is, in the Minister's opinion, an immediate threat to the public interest and the Minister so states in such notice giving reasons therefor, and thereafter the Minister shall cause a hearing to be held and the provisions of subsections (2) to (9) apply. 1978, c. 69, s. 8. Provisional suspension of approval

9. In determining need for the purposes of sections 3 and 8, the Minister shall take into account in addition to all other relevant considerations, Determination of need

(a) the services for children provided in approved children's institutions that exist;

(b) the services for children that are available other than in approved children's institutions;

- (c) the number of children requiring the services of children's institutions;
- (d) the predictable continuing demand for children's institutions,

in the area, or in the area and any other area served or to be served by the children's institution,

- (e) the relative priority of the program of the children's institution in relation to all other programs for children funded by the Ministry;
- (f) the funds available to provide continuing services for children in approved children's institutions; and
- (g) the place or places of residence of the children served or to be served by the children's institutions. 1978, c. 69, s. 9.

Regulations

10. The Lieutenant Governor in Council may make regulations governing the management, operation and use of approved children's institutions or any class thereof and, without limiting the generality of the foregoing, may make regulations,

- (a) exempting designated approved corporations or approved children's institutions or any class thereof from specified provisions of this Act or the regulations for such period or periods of time as the regulations prescribe;
- (b) establishing an advisory board consisting of not more than three persons and prescribing its duties;
- (c) governing the accommodation, facilities, equipment and services to be provided in approved children's institutions;
- (d) governing the establishment, management, operation, location and construction of approved children's institutions or any class thereof and their alteration and renovation;
- (e) governing the admission of persons to and their discharge from approved children's institutions, prescribing the conditions of eligibility and procedures for such admission and discharge;

- (f) prescribing the qualifications of persons employed in approved children's institutions or any class thereof and prescribing the powers and duties of such persons;
- (g) requiring and prescribing medical and other related or ancillary services for the care and treatment of children and other persons in approved children's institutions or in any class thereof;
- (h) governing applications by approved corporations for payments under this Act and prescribing the method, time, manner and the terms and conditions for the payment thereof and providing for the suspension and withholding of payments and for the making of deductions from payments;
- (i) defining criteria that shall be used by the Minister in determining need under subsection 3 (1);
- (j) prescribing classes of persons other than children for whom payment shall be made under section 6;
- (k) prescribing the manner of computing the costs for the purposes of sections 5 and 6 and prescribing classes of payment for the purposes of those sections and determining the amount of any such payment;
- (l) requiring approved corporations and approved children's institutions to provide such information as is prescribed and prescribing the persons to whom such information is to be given;
- (m) prescribing the accounts and records to be kept by approved corporations and approved children's institutions, the claims, returns and reports to be made and budgets to be submitted to the Minister by approved corporations and the method, time and manner in which such claims, returns and reports shall be made;
- (n) providing for the recovery by an approved corporation or Ontario from the person or persons in whose charge a child is or from the estate of such person or persons of any amount paid by the corporation or by Ontario to the corporation for the cost of the care and maintenance of the child in an approved children's institution and prescribing the circumstances and the manner in which any such recovery may be made;

- (o) prescribing additional powers and duties of program advisers;
- (p) prescribing forms and providing for their use;
- (q) establishing procedures by which a determination may be made by a person or persons of services that shall be provided in exceptional cases by an approved children's institution or any class thereof and prescribing the person or persons who shall make such determination and what constitutes exceptional cases;
- (r) providing for the recovery of payments made to approved corporations under this Act and the regulations. 1978, c. 69, s. 10.

Service

11.—(1) Unless otherwise provided for in this Act or the regulations, any notice required to be given, delivered, filed or served under this Act or the regulations is sufficiently given, delivered, filed or served if delivered personally or sent by registered mail addressed to the person to whom delivery or service is required to be made at the person's last known address.

Idem

(2) Where service is made by mail, the service shall be deemed to be made on the tenth day after the day of mailing unless the person on whom service is being made establishes that the person did not receive it or did not, acting in good faith, through absence, accident, illness or other cause beyond the person's control, receive the notice or order until a later date. 1978, c. 69, s. 11.

Offences

12. Every person who,

- (a) knowingly furnishes false information in any application under this Act or in any statement, report or return required to be furnished under this Act or the regulations; or
- (b) contravenes any provision of section 7,

and every director, officer or employee of a corporation who knowingly concurs in such furnishing of false information, or contravention by the corporation, is guilty of an offence and on conviction is liable to a fine of not more than \$2,000 or to imprisonment for a term of not more than two years, or to both. 1978, c. 69, s. 12.

CHAPTER 68

Children's Law Reform Act

PART I

EQUAL STATUS OF CHILDREN

1.—(1) Subject to subsection (2), for all purposes of the law of Ontario a person is the child of his or her natural parents and his or her status as their child is independent of whether the child is born within or outside marriage. Rule of parentage

(2) Where an adoption order has been made, section 86 or 87 of the *Child Welfare Act* applies and the child is the child of the adopting parents as if they were the natural parents. Exception for adopted children
R.S.O. 1980, c. 66

(3) The parent and child relationships as determined under subsections (1) and (2) shall be followed in the determination of other kindred relationships flowing therefrom. Kindred relationships

(4) Any distinction at common law between the status of children born in wedlock and born out of wedlock is abolished and the relationship of parent and child and kindred relationships flowing therefrom shall be determined for the purposes of the common law in accordance with this section. 1977, c. 41, s. 1. Common law distinction of legitimacy abolished

2.—(1) For the purposes of construing any instrument, Act or regulation, unless the contrary intention appears, a reference to a person or group or class of persons described in terms of relationship by blood or marriage to another person shall be construed to refer to or include a person who comes within the description by reason of the relationship of parent and child as determined under section 1. Rule of construction

(2) Subsection (1) applies to,

Application

(a) any Act of the Legislature or any regulation, order or by-law made under an Act of the Legislature enacted or made before, on or after the 31st day of March, 1978; and

- (b) any instrument made on or after the 31st day of March, 1978. 1977, c. 41, s. 2.

PART II

ESTABLISHMENT OF PARENTAGE

Court under
ss. 4-7

3. The court having jurisdiction for the purposes of sections 4 to 7 shall be the Unified Family Court in the Judicial District of Hamilton-Wentworth and the Supreme Court in the other parts of Ontario. 1977, c. 41, s. 3.

Application
for
declaration

4.—(1) Any person having an interest may apply to a court for a declaration that a male person is recognized in law to be the father of a child or that a female person is the mother of a child.

Declaration
of paternity
recognized
at law

(2) Where the court finds that a presumption of paternity exists under section 8 and unless it is established, on the balance of probabilities, that the presumed father is not the father of the child, the court shall make a declaratory order confirming that the paternity is recognized in law.

Declaration
of
maternity

(3) Where the court finds on the balance of probabilities that the relationship of mother and child has been established, the court may make a declaratory order to that effect.

Idem

(4) Subject to sections 6 and 7, an order made under this section shall be recognized for all purposes. 1977, c. 41, s. 4.

Application
for
declaration of
paternity
where no
presumption

5.—(1) Where there is no person recognized in law under section 8 to be the father of a child, any person may apply to the court for a declaration that a male person is his or her father, or any male person may apply to the court for a declaration that a person is his child.

Limitation

(2) An application shall not be made under subsection -(1) unless both the persons whose relationship is sought to be established are living.

Declaratory
order

(3) Where the court finds on the balance of probabilities that the relationship of father and child has been established, the court may make a declaratory order to that effect and, subject to sections 6 and 7, the order shall be recognized for all purposes. 1977, c. 41, s. 5.

6. Where a declaration has been made under section 4 or 5 and evidence becomes available that was not available at the previous hearing, the court may, upon application, discharge or vary the order and make such other orders or directions as are ancillary thereto. 1977, c. 41, s. 6. Reopening on new evidence

7. An appeal lies from an order under section 4 or 5 or a decision under section 6 in accordance with the rules of the court. 1977, c. 41, s. 7. Appeal

8.—(1) Unless the contrary is proven on a balance of probabilities, there is a presumption that a male person is, and he shall be recognized in law to be, the father of a child in any one of the following circumstances: Recognition in law of parentage

1. The person is married to the mother of the child at the time of the birth of the child.
2. The person was married to the mother of the child by a marriage that was terminated by death or judgment of nullity within 300 days before the birth of the child or by divorce where the decree *nisi* was granted within 300 days before the birth of the child.
3. The person marries the mother of the child after the birth of the child and acknowledges that he is the natural father.
4. The person was cohabiting with the mother of the child in a relationship of some permanence at the time of the birth of the child or the child is born within 300 days after they ceased to cohabit.
5. The person and the mother of the child have filed a statutory declaration under subsection 6 (8) of the *Vital Statistics Act* or a request under subsection 6 (5) of that Act, or either under a similar provision under the corresponding Act in another jurisdiction in Canada. R.S.O. 1980, c. 524
6. The person has been found or recognized in his lifetime by a court of competent jurisdiction in Canada to be the father of the child.

(2) For the purpose of subsection (1), where a man and woman go through a form of marriage with each other, in good faith, that is void and cohabit, they shall be deemed to be married during the time they cohabit and the marriage shall be deemed to be terminated when they cease to cohabit. Where marriage void

Conflicting
presump-
tions

(3) Where circumstances exist that give rise to a presumption or presumptions of paternity by more than one father under subsection (1), no presumption shall be made as to paternity and no person is recognized in law to be the father. 1977, c. 41, s. 8.

Admissi-
bility in
evidence of
acknowledg-
ment against
interest

9. A written acknowledgment of parentage that is admitted in evidence in any civil proceeding against the interest of the person making the acknowledgment is *prima facie* proof of the fact. 1977, c. 41, s. 9.

Approved
blood tests

10.—(1) Upon the application of a party in a civil proceeding in which the court is called upon to determine the parentage of a child, the court may give the party leave to obtain blood tests of such persons as are named in the order granting leave and to submit the results in evidence.

Conditions
attached

(2) Leave under subsection (1) may be given subject to such terms and conditions as the court thinks proper.

Inference
from refusal

(3) Where leave is given under subsection (1) and a person named therein refuses to submit to the blood test, the court may draw such inferences as it thinks appropriate.

Consent
where
incapacity

(4) Where a person named in an order granting leave under subsection (1) is not capable of consenting to having a blood test taken, the consent shall be deemed to be sufficient,

(a) where the person is a minor of the age of sixteen years or more, if the minor consents;

(b) where the person is a minor under the age of sixteen years, if the person having the charge of the minor consents; and

(c) where the person is without capacity for any reason other than minority, if the person having his charge consents and a legally qualified medical practitioner certifies that the giving of a blood sample would not be prejudicial to his proper care and treatment. 1977, c. 41, s. 10.

Regulations
for blood
tests

11. The Lieutenant Governor in Council may make regulations governing blood tests for which leave is given by a court under section 10 including, without limiting the generality of the foregoing,

(a) the method of taking blood samples and the handling, transportation and storage thereof;

- (b) the conditions under which a blood sample may be tested;
- (c) designating persons or facilities or classes thereof who are authorized to conduct blood tests for the purposes of section 10;
- (d) prescribing procedures respecting the admission of reports of blood tests in evidence;
- (e) prescribing forms for the purpose of section 10 and this section and providing for their use. 1977, c. 41, s. 11.

12.—(1) Any person may file in the office of the Registrar General a statutory declaration, in the form prescribed by the regulations, affirming that he is the father of a child. Statutory declaration of paternity

(2) Upon application and upon payment of the fee prescribed under the *Vital Statistics Act*, any person having an interest may inspect any relevant statutory declaration filed under subsection (1) and obtain a certified copy thereof from the Registrar General. 1977, c. 41, s. 12. Inspection and copies

13. Upon application and upon payment of the fee prescribed under the *Vital Statistics Act*, any person who has an interest, furnishes substantially accurate particulars and satisfies the Registrar General as to his reason for requiring it may inspect any statutory declaration filed under subsection 6 (8) of the *Vital Statistics Act* or any request filed under subsection 6 (5) of that Act and obtain a certified copy thereof from the Registrar General. 1977, c. 41, s. 13. Inspection of filings under R.S.O. 1980, c. 524

14.—(1) The registrar or clerk of every court in Ontario shall furnish the Registrar General with a statement in the form prescribed by the regulations respecting each order or judgment of the court that confirms or makes a finding of parentage. Filing of court decisions respecting parentage

(2) Upon application and upon payment of the fee prescribed under the *Vital Statistics Act*, any person may inspect an order or judgment filed under subsection (1) and obtain a certified copy thereof from the Registrar General. 1977, c. 41, s. 14. Inspection by public

15. A certificate certifying a copy of a document to be a true copy, obtained under section 12, 13 or 14, purporting to be signed by the Registrar General or Deputy Registrar Certified copies as evidence

General or on which the signature of either is lithographed, printed or stamped is, without proof of the office or signature of the Registrar General or Deputy Registrar General, receivable in evidence as *prima facie* proof of the filing and contents of the document for all purposes in any action or proceeding. 1977, c. 41, s. 15.

Duties of
Registrar
General

16. Nothing in this Act shall be construed to require the Registrar General to amend a registration showing parentage other than in recognition of an order made under section 4, 5 or 6. 1977, c. 41, s. 16.

Regulations
for forms

17. The Lieutenant Governor in Council may make regulations prescribing forms for the purposes of this Part. 1977, c. 41, s. 17.

CHAPTER 69

Children's Mental Health Services Act

1. In this Act,

Interpre-
tation

- (a) "approved children's mental health centre" means a children's mental health centre approved under section 6;
- (b) "approved corporation" means a corporation approved under section 5;
- (c) "children's mental health centre" means all or any part of a building or buildings maintained and operated to provide services for children suffering from mental, emotional or psychiatric disorders or any combination thereof;
- (d) "Director" means an employee of the Ministry appointed by the Minister as a director for all or any of the purposes of this Act;
- (e) "Minister" means the Minister of Community and Social Services;
- (f) "Ministry" means the Ministry of Community and Social Services;
- (g) "regulations" means the regulations made under this Act. 1978, c. 67, s. 1.

2.—(1) The Minister may appoint one or more persons ^{Appointment} to act as a Director. _{of Director}

(2) A Director shall perform the duties imposed and may ^{Duties of} exercise the powers conferred upon a Director by this Act _{Director} or the regulations or by any other Act or regulation there-under.

Acting
Director

(3) Where a Director is absent or there is a vacancy in the office of a Director, the powers and duties of the Director shall be exercised and performed by such employee of the Ministry as the Minister designates. 1978, c. 67, s. 2.

Centres
established
by
Minister

3. The Minister, with the approval of the Lieutenant Governor in Council, may establish, operate and maintain one or more children's mental health centres. 1978, c. 67, s. 3.

Existing
hospitals
to continue

4.—(1) Subject to this Act and the regulations, a hospital established under section 2 of *The Children's Mental Hospitals Act*, being chapter 69 of the Revised Statutes of Ontario, 1970 or designated under the regulations made under that Act before the 15th day of June, 1979, shall be deemed to continue as a children's mental health centre under section 3 of this Act until the establishment or designation is revoked by the Lieutenant Governor in Council.

Board of
governors
to continue

(2) Subject to this Act and the regulations, a board of governors appointed under section 4 of *The Children's Mental Hospitals Act*, being chapter 69 of the Revised Statutes of Ontario, 1970 before the 15th day of June, 1979, shall be deemed to continue as a board under this Act as if section 4 of *The Children's Mental Hospitals Act* were in force, until the appointment of the board is revoked by the Lieutenant Governor in Council.

Children's
mental
health
centres to
continue

(3) Subject to this Act and the regulations, a children's mental health centre designated as such by the regulations under *The Children's Mental Health Centres Act*, being chapter 68 of the Revised Statutes of Ontario, 1970 before the 15th day of June, 1979, shall be deemed to be an approved children's mental health centre until the approval is suspended or revoked.

Corporations
to continue

(4) Subject to this Act and the regulations, a corporation that operates a children's mental health centre designated as such by the regulations under *The Children's Mental Health Centres Act*, being chapter 68 of the Revised Statutes of Ontario, 1970 before the 15th day of June, 1979, shall be deemed to be an approved corporation until the approval is suspended or revoked. 1978, c. 67, s. 4.

Approval of
corporations

5.—(1) Where the Minister is satisfied that any corporation is, with financial assistance under this Act and the regu-

lations, financially capable of establishing, maintaining and operating a children's mental health centre and that its affairs are carried on under competent management in good faith, the Minister may approve the corporation for the purposes of this Act and the regulations.

(2) Where the Minister intends to approve a corporation under subsection (1), the Minister may enter into an agreement with the corporation for the establishment of a children's mental health centre upon such terms and conditions as may be agreed and may direct payment of expenditures as are necessary for the purpose. 1978, c. 67, s. 5.

Funding of corporations

6.—(1) Where the Minister is satisfied that all or any part of a building or buildings is suitable for providing services as a children's mental health centre in accordance with this Act and the regulations and that there is a need for a children's mental health centre in the area served or to be served by the centre, the Minister may approve all or any part of the building or buildings, as the case may be, as a children's mental health centre and assistance may be given under this Act and the regulations for the maintenance and operation of the children's mental health centre.

Approval of buildings

(2) An approval given under subsection (1) or under section 5 may take effect on any date fixed by the Minister that is prior to the date on which the approval is given, but in no case shall the date upon which the approval under subsection (1) takes effect precede the date on which the approval given under section 5 to the corporation maintaining and operating the children's mental health centre takes effect. 1978, c. 67, s. 6.

Effective date of approval

7.—(1) Subject to this section, any approval given under section 5 or 6 may be suspended or revoked by the Minister where,

Suspension and revocation of approvals

(a) any director, officer or employee of the approved corporation has contravened or knowingly permitted any person under the control and direction of the director, officer or employee, as the case may be, to contravene any provision of this Act or the regulations; or

(b) the approval would be refused if application were being made for it in the first instance.

(2) Subject to subsection (10), where the Minister proposes to suspend or revoke an approval given under section 5 or 6,

Notice of proposal to suspend or revoke

the Minister shall, except where the approval is suspended or revoked with the consent of the approved corporation, serve notice of the Minister's proposal to suspend or revoke the approval, together with written reasons therefor, on the approved corporation.

Notice
requiring
hearing

(3) A notice under subsection (2) shall inform the approved corporation that it is entitled to a hearing under this section if the corporation mails or delivers, within fifteen days after the notice under subsection (2) is served on it, notice in writing, to the Minister requiring a hearing and the corporation may so require a hearing.

Powers of
Minister
where no
hearing

(4) Where the approved corporation does not require a hearing under this section in accordance with subsection (5), the Minister may carry out the proposal stated in the Minister's notice under subsection (2) without a hearing.

Hearing

(5) Where the approved corporation requires a hearing under subsection (3), the Minister shall cause a hearing to be held to determine whether the approval should be suspended or revoked.

Idem

(6) Where the Minister causes a hearing to be held, the hearing shall be held by a person or persons appointed by the Minister other than a person or persons in the employment of the Ministry.

Application
of
R.S.O. 1980,
c. 484

(7) Sections 4 to 16 and 21 to 24 of the *Statutory Powers Procedure Act* apply with respect to a hearing under this section.

Report to
Minister

(8) The person or persons holding a hearing under this section shall, at the conclusion of the hearing, make a report to the Minister setting out,

(a) the findings of fact and any information or knowledge used by the person or persons in making any recommendations, any conclusions of law arrived at relevant to the recommendations; and

(b) the recommendations of the person or persons as to the suspension or revocation of the approval,

and shall send a copy of the report to the persons affected by the report.

Decision of
Minister

(9) After considering a report made under this section, the Minister may suspend or revoke the approval to which the report relates and shall give notice of the Minister's

decision to the persons affected, specifying the reasons therefor.

(10) Notwithstanding anything in this section, the Minister, by notice to the persons affected and without a hearing, may provisionally suspend an approval given under this Act where the continuation of operations in accordance with the approval is, in the Minister's opinion, a threat to the health, safety or welfare of the children in the children's mental health centre and the Minister so states in such notice giving reasons therefor, and thereafter the Minister shall cause a hearing to be held and the provisions of subsections (2) to (9) apply. 1978, c. 67, s. 7.

Provisional
suspension
of approval

8. In determining need for the purposes of sections 6 and 7, the Minister shall take into account in addition to all other relevant considerations, <sup>Deter-
mination
of need</sup>

- (a) the services for children provided in approved children's mental health centres that exist;
- (b) the services for children that are available other than in approved children's mental health centres;
- (c) the number of children requiring the services of children's mental health centres;
- (d) the predictable continuing demand for children's mental health centres,

in the area, or in the area and any other area served or to be served by the children's mental health centre,

- (e) the relative priority of the program of the children's mental health centre in relation to all other programs for children funded by the Ministry;
- (f) the funds available to provide continuing services for children in approved children's mental health centres; and
- (g) the place or places of residence of the children served or to be served by the children's mental health centre. 1978, c. 67, s. 8.

9.—(1) The Minister may designate in writing any person to be a program adviser with such powers and duties for the purposes of this Act and the regulations and subject to such limitations, restrictions, conditions and requirements as the Minister may set out in the designation. <sup>Program
adviser</sup>

Remuneration and expenses

(2) The remuneration and expenses of any person appointed under subsection (1) who is not in the employ of the public service of Ontario shall be fixed by the Minister and shall be paid out of the moneys appropriated therefor by the Legislature.

Powers of program advisers

(3) A program adviser may at all reasonable times and, upon producing proper identification,

(a) enter any children's mental health centre and inspect the facilities, the services provided and the books of account and other records therein; and

(b) inspect the books of account and other records of an approved corporation that pertain to a children's mental health centre.

Access for inspections

(4) Every person when requested so to do by a program adviser shall permit the entry and inspection by the program adviser of the premises referred to in subsection (3) and shall produce and permit inspection of the books of account and other records therein and supply extracts therefrom.

Obstructing inspection

(5) No person shall hinder or obstruct a program adviser in the performance of the program adviser's duties or refuse to permit the program adviser to carry out such duties or refuse to furnish the program adviser with information or furnish the program adviser with false information. 1978, c. 67, s. 9.

By-laws

10. The by-laws of every approved corporation shall contain such provisions regarding the formation and composition of the board of directors of the approved corporation as the regulations prescribe and a certified copy of the by-laws and any amendments thereto shall be filed with a Director forthwith after they are made. 1978, c. 67, s. 10.

Purchase of services

11. The Minister may, by written agreement or otherwise and upon such terms and conditions as may be agreed, purchase from any person, services for or on behalf of children suffering from mental, emotional or psychiatric disorders or any combination thereof and may direct payment of expenditures as are necessary for the purpose. 1978, c. 67, s. 11.

Regulations

12. The Lieutenant Governor in Council may make regulations governing the management, operation and use of approved children's mental health centres and classes thereof, and, without limiting the generality of the foregoing, may make regulations,

- (a) governing the admission of persons to and their discharge from approved children's mental health centres, prescribing the conditions of eligibility and procedures for such admission and discharge;
- (b) exempting designated,
 - (i) approved corporations, or
 - (ii) approved children's mental health centres,or any class thereof from specified provisions of this Act or the regulations for such period or periods of time as the regulations prescribe;
- (c) governing the accommodation, facilities, equipment and services to be provided in approved children's mental health centres or any class thereof;
- (d) prescribing the qualifications of persons employed in approved children's mental health centres or any class thereof and prescribing the powers and duties of such persons;
- (e) governing the establishment, location and construction of approved children's mental health centres or any class thereof and their alteration and renovation;
- (f) prescribing the classes of payments by way of provincial aid to any approved corporation, or approved children's mental health centre or class thereof and the methods of determining the amounts of payments and providing for the manner and time of payment and the terms and conditions for the payment thereof and the suspension and withholding of payments and for the making of deductions from payments;
- (g) prescribing additional powers and duties of program advisers;
- (h) prescribing provisions to be included in the by-laws of approved corporations;
- (i) prescribing the accounts and records to be kept, claims, returns and reports to be made and requiring budgets to be submitted by approved children's mental health centres and approved corporations;

- (j) prescribing forms and providing for their use;
- (k) for the purposes of this Act and the regulations, defining "services" and "facilities" and prescribing classes of services and facilities;
- (l) establishing procedures by which a determination may be made by a person or persons of services that shall be provided in exceptional cases by an approved children's mental health centre or any class thereof and prescribing the person or persons who shall make such determination and what constitutes exceptional cases;
- (m) prescribing programs to be provided in an approved children's mental health centre or any class thereof;
- (n) prescribing additional powers and duties of a Director;
- (o) requiring approved corporations and approved children's mental health centres to provide such information as is prescribed and prescribing the persons to whom such information is to be given. 1978, c. 67, s. 12.

Service

13.—(1) Unless otherwise provided for in this Act or the regulations, any notice required to be given, delivered, filed or served under this Act or the regulations is sufficiently given, delivered, filed or served if delivered personally or sent by registered mail addressed to the person to whom delivery or service is required to be made at the person's last known address.

Idem

(2) Where service is made by mail, the service shall be deemed to be made on the tenth day after the day of mailing unless the person on whom service is being made establishes that the person did not receive it or did not, acting in good faith, through absence, accident, illness or other cause beyond the person's control, receive the notice until a later date. 1978, c. 67, s. 13.

Offences

14.—(1) Every person who,

- (a) knowingly furnishes false information in any application under this Act or in any statement, report or return required to be furnished under this Act or the regulations; or
- (b) contravenes any provision of section 9,

and every director, officer or employee of a corporation who knowingly concurs in such furnishing of false information, or contravention by the corporation, is guilty of an offence and on conviction is liable to a fine of not more than \$2,000 or to imprisonment for a term of not more than two years, or to both.

(2) Where a corporation is convicted of an offence under ^{Corporations} subsection (1), the maximum penalty that may be imposed upon the corporation is \$10,000 and not as provided therein. 1978, c. 67, s. 14.

CHAPTER 70

Children's Probation Act

1. In this Act,

Interpre-
tation

- (a) "court" means a provincial court (family division) or the Unified Family Court;
- (b) "Minister" means the Minister of Community and Social Services;
- (c) "Ministry" means the Ministry of Community and Social Services;
- (d) "probationer" means a person who is bound by a probation order made under the *Juvenile Delinquents Act* (Canada). 1978, c. 41, s. 1.

R.S.C. 1970,
c. J-3

2.—(1) Such probation officers as are considered necessary for the purposes of this Act may be appointed under the *Public Service Act*.

Probation
officers
appointed
R.S.O. 1980,
c. 418

(2) The Minister may designate any person, other than a person who is appointed a probation officer under subsection (1), as a probation officer for the purpose of this Act but every such designated probation officer shall exercise the powers and perform the duties assigned to the probation officer under the supervision and direction of a probation officer appointed under subsection (1).

Probation
officers
designated

(3) Every probation officer appointed under subsection (1) or designated under subsection (2) is a probation officer in and for the Province of Ontario. 1978, c. 41, s. 2.

Juris-
diction

3. The Minister may enter into written agreements with any person upon such terms and conditions as may be agreed to respecting the provision of probation services. 1978, c. 41, s. 3.

Agreements

4. It is a function of a probation officer to assist a probationer in relation to the court process by explaining in language suitable to his or her age and level of understanding the proceedings and decisions affecting the probationer and, in general, to provide guidance and advice to a probationer and his or her family for the purpose of helping the probationer adjust to and benefit from participation in community life. 1978, c. 41, s. 4.

Functions
of
probation
officer

Duties of
probation
officer

5.—(1) It is the duty of a probation officer,

(a) to procure and report to a court such information pertaining to a person found to have been delinquent as the court may require for the purpose of making a disposition of the case;

(b) to make recommendations in the report referred to in clause (a) as to the disposition of the case upon being requested by the court;

(c) to comply with any direction made to the probation officer by a court in a probation order.

Variation
of
direction

(2) Where a probation officer is of the opinion that compliance with a direction issued by a court is impracticable or impossible, the probation officer may apply to the court for a variation of its direction, and, the court, upon consideration of the reasons for the application, may vary its direction to the probation officer as it considers appropriate in the circumstances. 1978, c. 41, s. 5.

Duties
assigned by
Minister

6. In addition to the duties of a probation officer referred to in section 5, a probation officer shall perform such other duties as are assigned to him by the Minister. 1978, c. 41, s. 6.

Regulations

7. The Lieutenant Governor in Council may make regulations,

(a) respecting the qualifications, duties and powers of probation officers;

(b) prescribing the reports and returns to be made by probation officers. 1978, c. 41, s. 7.

CHAPTER 71

Children's Residential Services Act

1. In this Act,

Interpre-
tation

- (a) "Board" means The Children's Services Review Board;
- (b) "child" means a boy or girl actually or apparently under eighteen years of age;
- (c) "children's residence" means all or any part of a building or buildings in which three or more children not of common parentage reside away from the home of their parents or guardians primarily for the purpose of receiving residential care, and includes a foster home or any other home or institution in which three or more children not of common parentage reside and that is supervised or operated by a children's aid society under the *Child Welfare Act*, whether or not the children are Crown wards or wards of the society, but does not include,
- (i) a house that is licensed under the *Private Hospitals Act*, R.S.O. 1980, c. 389
- (ii) a day nursery within the meaning of the *Day Nurseries Act*, R.S.O. 1980, c. 111
- (iii) a summer camp under the *Public Health Act*, R.S.O. 1980, c. 409
- (iv) a home for special care under the *Homes for Special Care Act*, R.S.O. 1980, c. 202
- (v) part of a public school, separate school, private school or a school for trainable retarded children under the *Education Act*, R.S.O. 1980, c. 129

- (vi) a hostel intended for short-term accommodation, or
- (vii) a hospital that is in receipt of financial aid from the Province of Ontario;
- (d) "Director" means an employee of the Ministry appointed by the Minister as a director for all or any of the purposes of this Act;
- (e) "licence" means a licence issued under this Act;
- (f) "Minister" means the Minister of Community and Social Services;
- (g) "Ministry" means the Ministry of Community and Social Services;
- (h) "operator" means a person who has control or management of a children's residence and "operate" has a corresponding meaning;
- (i) "regulations" means the regulations made under this Act;
- (j) "residential care" means boarding or lodging, or both, and may include specialized, sheltered or group care in conjunction with the boarding or lodging, or both. 1978, c. 70, s. 1.

Appointment
of Director

2.—(1) The Minister may appoint one or more persons to act as a Director.

Duties of
Director

(2) A Director shall perform the duties imposed and may exercise the powers conferred upon a Director by this Act or the regulations or by any other Act or regulation thereunder.

Acting
Director

(3) Where a Director is absent or there is a vacancy in the office of a Director, the powers and duties of the Director shall be exercised and performed by such employee of the Ministry as the Minister designates. 1978, c. 70, s. 2.

3.—(1) The Lieutenant Governor in Council may appoint a board to be known as The Children's Services Review Board composed of such number of members as is prescribed by the regulations.

Appointment
of Children's
Services
Review
Board

(2) A member of the Board may be appointed for a term not exceeding three years.

Term of
office

(3) Three members of the Board constitute a quorum.

Quorum

(4) One of the members of the Board shall be appointed by the Lieutenant Governor in Council to be chairman of the Board and one or more other of the members of the Board may be appointed by the Lieutenant Governor in Council to be vice-chairman of the Board.

Chairman
and vice-
chairman

(5) Each member of the Board shall be paid such *per diem* allowance as the Lieutenant Governor in Council from time to time determines and each member is entitled to the member's reasonable and necessary travelling and living expenses while attending meetings or otherwise engaged in the work of the Board.

Remuner-
ation

(6) Where,

Absence,
etc., of
chairman

(a) the chairman of the Board is absent or is unable to act, a vice-chairman designated by the chairman; or

(b) the office of the chairman of the Board is vacant, a vice-chairman designated by the Minister,

has and shall exercise the jurisdiction and power of the chairman, including the power to complete any unfinished matter.

(7) The chairman shall from time to time assign various members of the Board to its various hearings. 1978, c. 70, s. 3.

Assignment
of members
for hearings

4.—(1) No person shall,

Licence
required

(a) establish, operate or maintain a children's residence; or

(b) provide, directly or indirectly, residential care for three or more children not of common parentage in a place or places away from the home of their parents or guardians that is not a children's residence,

except under the authority of a licence issued by a Director under this Act.

Issuance
of licence

(2) Subject to section 5, any person who applies in accordance with this Act and the regulations for a licence to establish, operate or maintain a children's residence or to provide the residential care referred to in clause (1) (b), as the case may be, and pays the prescribed fee is entitled to be issued a licence by a Director subject to such terms and conditions as the Director may prescribe.

Idem

(3) Notwithstanding subsection (2), a licence to establish, operate or maintain a children's residence or to provide the residential care referred to in clause (1) (b), shall not be issued to a partnership or association of persons.

Renewal
of licence

(4) Subject to section 5, a Director shall renew a licence of a children's residence or for the provision of residential care, as the case may be, on application therefor by the licensee in accordance with this Act and the regulations and payment of the prescribed fee, and the renewal shall be subject to such terms and conditions as the Director may prescribe.

Provisional
licence

(5) Subject to section 5, where an applicant for a licence or a renewal of a licence does not meet all the requirements for the issuance of a licence or renewal thereof and requires time to meet such requirements, a Director may, subject to such terms and conditions as the Director may prescribe, issue a provisional licence for such period or periods as the Director considers necessary to afford the applicant an opportunity to meet the requirements.

Not
transferable

(6) A licence is not transferable.

Notice of
change

(7) Where the licensee is a corporation, the licensee shall notify a Director in writing within fifteen days of any change in the officers or directors of the corporation. 1978, c. 70, s. 4.

Grounds for
refusal

5.—(1) Subject to section 6, a Director may refuse to issue a licence where in the Director's opinion,

(a) the applicant or any employee of the applicant or, where the applicant is a corporation, its officers, directors or employees is or are not competent to establish, operate or maintain a children's residence or to provide the residential care referred to

in clause 4 (1) (b), as the case may be, in a responsible manner in accordance with this Act and the regulations;

(b) the past conduct of the applicant or any employee of the applicant or, where the applicant is a corporation, of its officers, directors or employees, affords reasonable grounds for belief that the children's residence will not be established, operated or maintained or the residential care provided, as the case may be, in accordance with this Act and the regulations; or

(c) the building or buildings or accommodation in which the applicant proposes to establish, operate or maintain the children's residence or to provide the residential care referred to in clause 4 (1) (b), as the case may be, does not comply with the requirements of this Act and the regulations.

(2) Subject to section 6, a Director may refuse to renew or may revoke a licence issued to a children's residence or for the provision of residential care, where in the Director's opinion, Revocation
or refusal
to renew

(a) the licensee or any employee of the licensee, or where the licensee is a corporation, any officer, director or employee thereof, has contravened or has knowingly permitted any person under the control or direction of or associated with the licensee, officer, director or employee, as the case may be, to contravene,

(i) any provision of this Act or the regulations or of any other Act or the regulations thereunder applying to the establishing, operating or maintaining of the children's residence or the providing of residential care, as the case may be, or

(ii) any term or condition of the licence;

(b) the building or buildings or accommodation in which the children's residence is established, operated or maintained or the residential care is provided, does not comply with the requirements of this Act and the regulations;

- (c) the children's residence is established, operated or maintained or the residential care is provided in a manner that is prejudicial to the health, safety or welfare of the children cared for in the children's residence or place or places where the residential care is provided;
- (d) any person has made a false statement in the application for the licence or renewal thereof, or in any report, document or other information required to be furnished by this Act or the regulations or by any other Act or regulation that applies to the children's residence or the provision of residential care, as the case may be; or
- (e) a change in the officers or directors of the applicant would, if the applicant were applying for the licence in the first instance, afford grounds for refusing to issue a licence under clause (1) (b). 1978, c. 70, s. 5.

Notice of
proposal
to refuse
to issue
or to revoke

6.—(1) Where a Director proposes under section 5 to refuse to issue a licence or to refuse to renew or revoke a licence issued under that section, the Director shall cause notice to be served of the Director's proposal, together with written reasons therefor, on the applicant or the licensee, as the case may be.

Notice
requiring
hearing

(2) A notice under subsection (1) shall inform the applicant or licensee, as the case may be, that the applicant or licensee is entitled to a hearing by the Board if the applicant or licensee mails or delivers, within fifteen days after the notice is served on the applicant or licensee, notice in writing to the Director and to the Board, requiring a hearing and the applicant or licensee, as the case may be, may so require such a hearing.

Powers of
Director
where no
hearing

(3) Where an applicant or licensee does not require a hearing by the Board in accordance with subsection (2), the Director may carry out the proposal stated in the Director's notice under subsection (1) without a hearing.

Powers of
Board
where
hearing

(4) Where an applicant or licensee requires a hearing by the Board in accordance with subsection (2), the Board shall appoint a time for and hold the hearing and, at the hearing, may by order direct the Director to carry out the Director's proposal or refrain from carrying out the Director's proposal and to take such action as the Board considers the Director ought to take in accordance with this Act and the

regulations, and, for such purposes, the Board may substitute its opinion for that of the Director. 1978, c. 70, s. 6.

7.—(1) Where a licensee is dissatisfied with the terms and conditions prescribed by a Director under subsection 4 (2), (4) or (5), the licensee may, within fifteen days after the licence is received by the licensee, by written notice given to the Director and the Board, require a hearing by the Board and the Board shall appoint a time for and hold a hearing.

Review
of terms
of licence
by Board

(2) The Board, pursuant to a hearing under subsection (1), may affirm the terms and conditions prescribed for the licence by a Director under subsection 4 (2), (4) or (5) or may cancel such terms and conditions or may prescribe such other terms and conditions for the licence in lieu of those prescribed by the Director as it considers proper.

Decision of
Board

(3) For the purposes of subsection (1), a licence shall be deemed to be received by a licensee on the tenth day after the day of mailing of the licence unless the person to whom the licence is issued establishes that the person did not receive it or did not, acting in good faith, through absence, accident, illness or other cause beyond the person's control, receive the licence until a later date. 1978, c. 70, s. 7.

Receipt of
licence

8.—(1) The Board may extend the time for requiring a hearing under section 6 or 7, either before or after expiration of the time fixed in section 6 or 7, as the case may be, where it is satisfied that there are *prima facie* grounds for granting relief to the applicant or licensee pursuant to a hearing and that there are reasonable grounds for applying for the extension, and may give such directions as it considers proper consequent upon the extension.

Extension
of time for
requiring
hearing

(2) Subject to section 9, where, within the time prescribed therefor or, if no time is prescribed, before expiration of a licence, a licensee has applied for renewal of a licence and paid the prescribed fee, the licence shall be deemed to continue,

Continua-
tion of
licence
pending
renewal

(a) until the renewal is granted; or

(b) where the licensee is served with notice that the Director proposes to refuse to grant the renewal, until the time for requiring a hearing has expired and, where a hearing is required, until the Board has made its decision. 1978, c. 70, s. 8.

Provisional
suspension,
etc.

9. Notwithstanding section 6, a Director may, by causing notice to be served on a licensee and without a hearing, provisionally suspend the licence of the licensee where in the opinion of the Director the operation of the children's residence or the provision of residential care is an immediate threat to the health, safety or welfare of the children cared for in the children's residence or the place or places where residential care is provided, as the case may be, and the Director so states in such notice giving reasons therefor, and, upon suspension, the provisions of section 6 apply as if the notice given under this section were a notice of a proposal under subsection 6 (1) to revoke the licence. 1978, c. 70, s. 9.

Parties

10.—(1) The Director referred to in section 6 or 9, as the case may be, the applicant or licensee who has applied for the hearing and such other persons as may be specified by the Board are parties to proceedings before a Board under this Act.

Members
holding
hearing
not to have
taken part
in investi-
gation, etc.

(2) A member of the Board holding a hearing shall not have taken part before the hearing in any investigation or consideration of the subject-matter of the hearing and shall not communicate, directly or indirectly, in relation to the subject-matter of the hearing with any person or with any party or the parties' representative except upon notice to and giving opportunity for all parties to participate, but the Board may seek legal advice from an adviser independent from the parties and in such case the nature of the advice should be made known to the parties in order that they may make submissions as to the law.

Examina-
tion of
docu-
mentary
evidence

(3) An applicant or licensee who is a party to proceedings under section 6 or 7 shall be afforded an opportunity to examine before the hearing any written or documentary evidence that will be produced, or any report the contents of which will be given in evidence at the hearing.

Recording
of
evidence

(4) The oral evidence taken before the Board at a hearing shall be recorded and, if so required, copies or a transcript thereof shall be furnished upon the same terms as in the Divisional Court.

Findings
of fact

(5) The findings of fact of the Board pursuant to a hearing shall be based exclusively on evidence admissible or matters that may be noticed under sections 15 and 16 of the *Statutory Powers Procedure Act*.

R.S.O. 1980,
c. 484

Only
members
at hearing
to partici-
pate in
decision

(6) No member of the Board shall participate in a decision of the Board pursuant to a hearing unless he was present

throughout the hearing and heard the evidence and argument of the parties and, except with the consent of the parties, no decision of the Board shall be given unless all members so present participate in the decision.

(7) Notwithstanding section 21 of the *Statutory Powers Procedure Act*, the Board shall reach a final decision or order and send notice thereof within ninety days from the date that the notice under section 6 or 7, as the case may be, requesting the hearing, has been received by the Board. 1978, c. 70, s. 10.

Final
decision of
Board
R.S.O. 1980,
c. 484

11.—(1) Any party to the proceedings before the Board may appeal from its decision or order to the Divisional Court in accordance with the rules of court.

Appeal
to court

(2) Where notice of an appeal is served under this section, the Board shall forthwith file with the Registrar of the Supreme Court the record of the proceedings before it in which the decision or order appealed from was made, which, together with the transcript of evidence before the Board if it is not part of the Board's record, shall constitute the record in the appeal.

Record to
be filed in
court

(3) The Minister is entitled to be heard, by counsel or otherwise, on the argument of an appeal under this section.

Minister
entitled
to be
heard

(4) The Divisional Court may affirm the decision of the Board appealed from or may rescind it and make such new decision as the court considers proper and, for such purpose, the court may exercise all the powers of the Board after a hearing before it and may substitute its opinion for that of the Board. 1978, c. 70, s. 11.

Powers of
court on
appeal

12. Where the licence to operate a children's residence or to provide residential care, as the case may be, is suspended or revoked, the parent or guardian of each child in the children's residence or in receipt of residential care shall arrange for the removal of the child as soon as is practicable having regard to the best interests of the child, and the Minister may assist in finding alternative residential care for the child. 1978, c. 70, s. 12.

Removal of
children

13.—(1) The Minister may, at any time,

Warrant
for entry
and occupa-
tion

(a) during the course of proceedings under sections 6 to 11; or

(b) where a licence to operate a children's residence or to provide residential care, as the case may be, is suspended or revoked,

apply *ex parte* to the county or district court of the county or district in which the children's residence is situate, or where the residential care is provided, for a warrant directing the sheriff to put the Minister or persons authorized by the Minister in occupation of the children's residence or the place or places where the residential care is provided, pending the outcome of the proceedings, or when the revocation becomes final, as the case may be, until alternative accommodation may be found for the children who are being cared for and where the court is satisfied that it is necessary for the health, safety or welfare of the children being cared for, the court may issue a warrant and the sheriff shall forthwith execute the warrant and make a return to the court of the execution thereof.

Interim
manage-
ment

R.S.O. 1980,
c. 148

(2) Where a warrant has been issued under subsection (1), the Minister may, notwithstanding sections 25 and 41 of the *Expropriations Act*, immediately occupy and operate or arrange for the occupation and operation by a person designated by the Minister of the children's residence or place or places where the residential care is provided for a period not exceeding six months, but all the rights of the owner under that Act, except those rights necessary to permit occupation and operation of the residence, including occupation and operation beyond the expiration of the term of any lease, are preserved.

Records

(3) Where a licence to operate a children's residence or to provide residential care, as the case may be, is revoked, the operator and owner of the residence shall, where requested by the Minister, hand over to the Minister, or a person designated by the Minister, all the records that are in the possession or control of the operator or owner, as the case may be, and that pertain to the children in the residence. 1978, c. 70, s. 13.

Program
adviser

14.—(1) The Minister may designate in writing any person to be a program adviser with such powers and duties for the purposes of this Act and the regulations and subject to such limitations, restrictions, conditions and requirements as the Minister may set out in the designation.

Remunera-
tion and
expenses

(2) The remuneration and expenses of any person appointed under subsection (1) who is not in the employ of the public service of Ontario shall be fixed by the Minister and shall be paid out of the moneys appropriated therefor by the Legislature.

Powers of
program
advisers

(3) A program adviser may, at all reasonable times and upon producing proper identification, enter any children's residence or premises where the residential care described

in clause 4 (1) (b) is provided that the program adviser on reasonable and probable grounds believes is being used as a children's residence or to provide residential services and inspect the facilities, the services provided and the books of account, and other records therein.

(4) Every person when requested so to do by a program adviser shall permit the entry and inspection by the program adviser of the premises referred to in subsection (1) and shall produce and permit inspection of the books of account and other records therein and supply extracts therefrom. ^{Access for inspections}

(5) No person shall hinder or obstruct a program adviser in the performance of the program adviser's duties or refuse to permit the program adviser to carry out such duties or refuse to furnish the program adviser with information or furnish the program adviser with false information. 1978, c. 70, s. 14. ^{Obstructing inspection}

15.—(1) A Director may apply to the Supreme Court by originating notice for an order enjoining any person, ^{Injunction proceedings}

(a) acting in contravention of subsection 4 (1); or

(b) operating a children's residence or providing residential care where the person's licence has been provisionally suspended under section 9,

and the court in its discretion may make such an order and the order may be entered and enforced in the same manner as any other order or judgment of the Supreme Court.

(2) Any person may apply to the Supreme Court for an order varying or discharging any order made under subsection (1). 1978, c. 70, s. 15. ^{Idem}

16. The Lieutenant Governor in Council may make regulations governing the management, operation and use of children's residences, and premises where residential care is provided under the authority of a licence and classes of either of them, and, without limiting the generality of the foregoing, may make regulations, ^{Regulations}

(a) defining "common parentage" for the purposes of clause 1 (c) and clause 4 (1) (b);

(b) prescribing additional powers and duties of a Director;

- (c) prescribing additional powers and duties of program advisers;
- (d) governing the issuance, renewal and expiration of licences referred to in section 4 and the fees payable by an applicant for a licence or renewal thereof;
- (e) governing the establishment of and the accommodation, facilities, equipment and services to be provided in,
 - (i) a children's residence, and
 - (ii) premises where residential care is provided under the authority of a licence,or any class thereof;
- (f) exempting designated,
 - (i) children's residences, or
 - (ii) premises where residential care is provided under the authority of a licence,or any class thereof from specified provisions of this Act or the regulations for such period or periods of time as the regulations prescribe;
- (g) prescribing the accounts and records to be kept and the returns and reports by licensees;
- (h) prescribing the qualifications of persons supervising children in,
 - (i) a children's residence, or
 - (ii) premises where residential care is provided under the authority of a licence,or any class thereof and prescribing the powers and duties of such persons;
- (i) governing the admission to and discharge of children from,
 - (i) children's residences, or
 - (ii) premises where residential care is provided under the authority of a licence,or any class thereof and procedures for such admission and discharge;

- (j) requiring the operators of children's residences, or premises where residential care is provided under the authority of a licence to provide such information as is prescribed and prescribing the persons to whom such information is to be given;
- (k) prescribing additional powers, duties and procedures of the Board;
- (l) prescribing forms and providing for their use. 1978, c. 70, s. 16.

17.—(1) Unless otherwise provided for in this Act or the ^{Service} regulations, any notice required to be given, delivered, filed or served under this Act or the regulations is sufficiently given, delivered, filed or served if delivered personally or sent by registered mail addressed to the person to whom delivery or service is required to be made at the person's last known address.

(2) Where service is made by mail, the service shall be ^{Idem} deemed to be made on the tenth day after the day of mailing unless the person on whom service is being made establishes that the person did not receive it or did not, acting in good faith, through absence, accident, illness or other cause beyond the person's control, receive the notice or order until a later date. 1978, c. 70, s. 17.

18.—(1) Every person who, Offence

- (a) contravenes any provision of subsection 4 (1);
- (b) contravenes any term or condition of a licence relating to the maximum number of children to be cared for in a children's residence or place where residential care is provided; or
- (c) causes a child to be cared for in a children's residence or place where residential care is provided that is required to be licensed and that is not licensed under this Act and every parent or guardian or other person who is under a legal duty to provide for a child and who permits the child to be cared for in such a residence or place,

and every director, officer or employee of a corporation who knowingly concurs in such contravention or causing by the corporation is guilty of an offence and on conviction by the court is

liable to a fine of not more than \$1,000 for each day on which such offence continues or to imprisonment for a term of not more than one year, or to both.

Idem

(2) Every person who,

(a) knowingly furnishes false information in any application under this Act or in any statement, report or return required to be furnished under this Act or the regulations;

(b) fails to comply with a warrant, order or direction made by any court of competent jurisdiction under this Act; or

(c) contravenes any provision of section 14,

and every director, officer or employee of a corporation who knowingly concurs in such furnishing of false information, failure or contravention by the corporation is guilty of an offence and on conviction by the court is liable to a fine of not more than \$2,000 or to imprisonment for a term of not more than two years, or to both. 1978, c. 70, s. 18.

CHAPTER 72

Chiropody Act

1. In this Act,

Interpre-
tation

- (a) "Board" means the Board of Regents appointed under this Act;
- (b) "chiropractist" means a person, other than a legally qualified medical practitioner, who practises or advertises or holds himself out in any way as practising the treatment of any ailment, disease, defect or disability of the human foot;
- (c) "regulations" means the regulations made under this Act. R.S.O. 1970, c. 70, s. 1.

2.—(1) The Board of Regents is continued and shall be composed of not fewer than three and not more than seven persons appointed by the Lieutenant Governor in Council. 1980, c. 63, s. 1.

(2) Every member of the Board shall hold office for a period of two years, but is eligible for reappointment on the expiration of his term of office.

(3) Every vacancy on the Board caused by the death, resignation or incapacity of a member shall be filled by the appointment of a person to hold office for the remainder of the term of such member.

(4) The Lieutenant Governor in Council shall designate from time to time one of the members to be chairman, one to be vice-chairman and one to be secretary-treasurer of the Board. R.S.O. 1970, c. 70, s. 2 (2-4).

3. The Board, with the approval of the Lieutenant Governor in Council, may make regulations,

- (a) for the admission of chiropractists to practise in Ontario and for the registration of all persons so admitted and for the issuing of certificates of registration;
- (b) prescribing the training and qualifications of persons so to be admitted and the proofs to be furnished as to education and good character;

- (c) providing for approval of schools, colleges or universities, and prescribing educational standards, methods and hours of training and instruction facilities, and other requirements for approved schools, colleges or universities;
- (d) providing for the appointment of examiners and the examination and re-examination of applicants for registration as chiropodists, prescribing the subjects for examination, the minimum standards to be obtained on examination or re-examination, and the fees to be paid on examination and re-examination;
- (e) for maintaining a register of persons so admitted to practise, and providing for the annual renewal of registration and prescribing the fees to be paid therefor;
- (f) providing for the holding of meetings of the Board, the business to be transacted thereat, the quorum and the powers and duties of the Board and of the chairman, vice-chairman and secretary-treasurer of the Board;
- (g) providing for the payment of a per diem allowance and an allowance for travelling and living expenses to members of the Board while engaged on business of the Board, and payment of compensation to the secretary-treasurer of the Board in lieu of a per diem allowance;
- (h) providing for the employment of such persons or services as may be required and for the payment of salaries, fees and expenses and generally for payment out of funds at the disposal of the Board;
- (i) prescribing the books and records to be kept by the Board;
- (j) providing for the auditing of the books and accounts of the Board;
- (k) prescribing the discipline and control of registered chiropodists and regulating the manner of carrying on their business;
- (l) designating and regulating the manner in which a registered chiropodist may describe his qualification or occupation and prohibiting the use of any title, affix or prefix that in the opinion of the Board is calculated to mislead the public as to the qualification of any such person and for allowing the use of any affix or prefix not forbidden by subsection 67 (2) of the *Health Disciplines*

Act that in the opinion of the Board will correctly describe the qualification or occupation of such person;

- (*m*) providing for the investigation of any complaint that a registered chiropodist has been guilty of misconduct or displayed such ignorance or incompetence as to render it desirable in the public interest that his registration should be cancelled or suspended;
- (*n*) providing for the cancellation or suspension of the registration of any person found by the Board to be guilty of misconduct or of any contravention of this Act or the regulations, or to have been ignorant or incompetent;
- (*o*) respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act. R.S.O. 1970, c. 70, s. 3.

4. Where the Minister of Health requests in writing that the Board make, amend or revoke a regulation under section 3 and the Board has failed to do so within sixty days after the request, the Lieutenant Governor in Council may make the regulation, amendment or revocation specified in the request. 1980, c. 63, s. 2.

5. Nothing in this Act or the regulations authorizes a chiropodist,

Regulations
by
Lieutenant
Governor
in Council

Act does not
authorize
general
practice of
medicine

- (*a*) to administer a drug internally or to prescribe a drug for use internally;
- (*b*) to administer an anaesthetic other than a substance applied externally to the skin; or
- (*c*) to practise medicine, surgery or midwifery,

but nothing in this Act or the regulations prevents the treatment by a registered chiropodist of morbid conditions of the nails and skin and the resulting minor morbid conditions of the subcutaneous tissues of the human foot. R.S.O. 1970, c. 70, s. 4.

6. Every person who, not being registered as a chiropodist under this Act or who having been so registered and whose registration has been cancelled or is under suspension, practises or holds himself out as practising as a chiropodist within the meaning of this Act, or who advertises or uses or affixes any prefix to his name signifying that he is qualified to practise as a chiropodist within the meaning of this Act is guilty of an offence

Penalty for
unauthorized
practise

and on conviction is liable to a fine of not more than \$100 and upon conviction for a subsequent offence within a period of two years after such first conviction shall be imprisoned for a term of not more than three months. R.S.O. 1970, c. 70, s. 5.

Proof of
registration

7.—(1) In all cases where proof of registration under this Act is required to be made, the production of a printed or other copy of the register, certified under the hand of the secretary-treasurer of the Board, is sufficient proof of all persons who are registered chiropodists in lieu of the production of the original register, and any certificate upon the printed or other copy of the register purporting to be signed by a person in his capacity of secretary-treasurer of the Board under this Act is *prima facie* proof that the person is the secretary-treasurer.

Evidence
of non-
registration

(2) The absence of the name of a person from the copy is *prima facie* proof that the person is not registered under this Act.

Omission of
name from
copy

(3) In the case of a person whose name does not appear in the copy, a certified copy under the hand of the secretary-treasurer of the entry of the name of the person on the register is *prima facie* proof that the person is registered under this Act. R.S.O. 1970, c. 70, s. 6.

Where Act
does not
apply

8. Nothing in this Act applies to or affects,

- (a) the practice of any profession or calling under any general or special Act of the Legislature;
- (b) any nurse acting in the absence of, or under the prescription or direction of, a legally qualified medical practitioner;
- (c) the furnishing of first aid or temporary assistance in cases of emergency;
- (d) persons treating human ailments by prayer or spiritual means as an enjoyment or exercise of religious freedom. R.S.O. 1970, c. 70, s. 7.

Compliance
with other
statutes not
affected
R.S.O. 1980,
cc. 409, 524

9. Nothing in this Act or the regulations shall be taken or deemed to relieve any person from compliance with the *Public Health Act*, the *Vital Statistics Act* or any legal duty to provide for the treatment of a person by a legally qualified medical practitioner. R.S.O. 1970, c. 70, s. 8.

CHAPTER 73

Collection Agencies Act

1.—(1) In this Act,

Interpre-
tation

- (a) “business premises” does not include a dwelling;
- (b) “collection agency” means a person other than a collector who obtains or arranges for payment of money owing to another person, or who holds out to the public that he provides such a service or any person who sells or offers to sell forms or letters represented to be a collection system or scheme;
- (c) “collector” means a person employed, appointed or authorized by a collection agency to solicit business or collect debts for the agency or to deal with or trace debtors for the agency;
- (d) “Director” means the Director of the Consumer Protection Division of the Ministry;
- (e) “dwelling” means any premises or any part thereof occupied as living accommodation;
- (f) “equity share” means a share of a class of shares that carries a voting right either under all circumstances or under some circumstances that have occurred and are continuing;
- (g) “Minister” means the Minister of Consumer and Commercial Relations;
- (h) “Ministry” means the Ministry of Consumer and Commercial Relations;
- (i) “non-resident” means an individual, corporation or trust that is not a resident;
- (j) “prescribed” means prescribed by this Act or the regulations;
- (k) “registered” means registered under this Act;

- (l) "Registrar" means the Registrar of Collection Agencies;
- (m) "regulations" means the regulations made under this Act;
- (n) "resident" means,
 - (i) an individual who is a Canadian citizen or has been lawfully admitted to Canada for permanent residence and who is ordinarily resident in Canada,
 - (ii) a corporation that is incorporated, formed or organized in Canada and that is controlled directly or indirectly by persons who are residents or by a resident trust, or
 - (iii) a trust that is established by resident individuals or a resident corporation or one in which resident individuals or corporations hold more than 50 per cent of the beneficial interest;

R.S.O. 1980,
c. 274

- (o) "Tribunal" means The Commercial Registration Appeal Tribunal under the *Ministry of Consumer and Commercial Relations Act*. R.S.O. 1970, c. 71, s. 1; 1971, c. 50, s. 21 (1); 1972, c. 1, ss. 1, 33; 1974, c. 29, s. 1 (1, 2).

Corporations

(2) For the purposes of subclause (1) (n) (ii), a corporation shall be deemed to be controlled by another person or corporation or by two or more corporations if,

- (a) equity shares of the first-mentioned corporation carrying more than 50 per cent of the votes for the election of directors are held, otherwise than by way of security only, by or for the benefit of such other person or corporation or by or for the benefit of such other corporations; and
- (b) the votes carried by such securities are sufficient, if exercised, to elect a majority of the board of directors of the first-mentioned corporation. 1974, c. 29, s. 1 (3).

Application
of Act

2. This Act does not apply,

- (a) to a barrister or solicitor in the regular practice of his profession or to his employees;

- (b) to an insurer or agent licensed under the *Insurance Act* or broker registered under the *Registered Insurance Brokers Act*, to the extent of the business authorized by such licence or registration, or to his employees; R.S.O. 1980, cc. 218, 444
- (c) to an assignee, custodian, liquidator, receiver, trustee or other person licensed or acting under the *Bankruptcy Act* (Canada), the *Corporations Act*, the *Business Corporations Act*, the *Judicature Act* or the *Winding-up Act* (Canada) or a person acting under the order of any court; R.S.C. 1970, cc. B-3, W-10
R.S.O. 1980, cc. 95, 54, 223
- (d) to a broker or salesman registered under the *Real Estate and Business Brokers Act*, or an official or other employee of such a broker to the extent of the business authorized by the registration; R.S.O. 1980, c. 431
- (e) to a bank to which the *Bank Act* (Canada) applies, the Province of Ontario Savings Office, a loan corporation or trust company registered under the *Loan and Trust Corporations Act*, or an employee thereof in the regular course of his employment; 1980-81, C-40 (Can.)
R.S.O. 1980, c. 249
- (f) to an isolated collection made by a person whose usual business is not collecting debts for other persons;
- (g) to a credit union incorporated under the *Credit Unions and Caisses Populaires Act* or any employee thereof acting in the regular course of his employment; or R.S.O. 1980, c. 102
- (h) to a person providing counselling services in respect of consumer credit and receiving public money under the *Ministry of Community and Social Services Act* for the purpose. R.S.O. 1980, c. 273
R.S.O. 1970, c. 71, s. 2; 1973, c. 9, s. 1.

3.—(1) There shall be a Registrar of Collection Agencies who shall be appointed by the Lieutenant Governor in Council. Registrar

(2) The Registrar may exercise the powers and shall perform the duties conferred or imposed upon him by or under this Act under the supervision of the Director. Duties of Registrar
R.S.O. 1970, c. 71, s. 3.

4.—(1) No person shall carry on the business of a collection agency or act as a collector unless he is registered by the Registrar under this Act. Registration

(2) A registered collection agency shall not carry on business in a name other than the name in which it is registered or invite the public to deal at a place other than that authorized by the registration. Name and place of business
R.S.O. 1970, c. 71, s. 4.

Use of name
to collect
debts

5. No creditor shall deal with his debtor for payment of the debt except under the name in which the debt is lawfully owing or through a registered collection agency. R.S.O. 1970, c. 71, s. 5.

Registration

6.—(1) An applicant is entitled to registration or renewal of registration by the Registrar except where,

- (a) having regard to his financial position, the applicant cannot reasonably be expected to be financially responsible in the conduct of his business; or
- (b) the past conduct of the applicant affords reasonable grounds for belief that he will not carry on business in accordance with law and with integrity and honesty; or
- (c) the applicant is a corporation and,
 - (i) having regard to its financial position, it cannot reasonably be expected to be financially responsible in the conduct of its business, or
 - (ii) the past conduct of its officers or directors affords reasonable grounds for belief that its business will not be carried on in accordance with law and with integrity and honesty; or
- (d) the applicant is carrying on activities that are, or will be, if the applicant is registered, in contravention of this Act or the regulations; or
- (e) the applicant fails to comply with section 10 or 11. 1971, c. 50, s. 21 (2), *part*; 1974, c. 29, s. 2.

Conditions of
registration

(2) A registration is subject to such terms and conditions to give effect to the purposes of this Act as are consented to by the applicant, imposed by the Tribunal or prescribed by the regulations. 1971, c. 50, s. 21 (2), *part*.

Refusal to
register

7.—(1) Subject to section 8, the Registrar may refuse to register an applicant where in the Registrar's opinion the applicant is disentitled to registration under section 6.

Refusal to
renew,
suspend
or revoke

(2) Subject to section 8, the Registrar may refuse to renew or may suspend or revoke a registration for any reason that would disentitle the registrant to registration under section 6 if he were an applicant, or where the registrant is in breach of a term or condition of the registration. 1971, c. 50, s. 21 (2), *part*.

8.—(1) Where the Registrar proposes to refuse to grant or renew a registration or proposes to suspend or revoke a registration, he shall serve notice of his proposal, together with written reasons therefor, on the applicant or registrant.

Notice of
proposal
to refuse
or revoke

(2) A notice under subsection (1) shall inform the applicant or registrant that he is entitled to a hearing by the Tribunal if he mails or delivers, within fifteen days after the notice under subsection (1) is served on him, notice in writing requiring a hearing to the Registrar and the Tribunal, and he may so require such a hearing.

Notice
requiring
hearing

(3) Where an applicant or registrant does not require a hearing by the Tribunal in accordance with subsection (2), the Registrar may carry out the proposal stated in his notice under subsection (1).

Powers of
Registrar
where no
hearing

(4) Where an applicant or registrant requires a hearing by the Tribunal in accordance with subsection (2), the Tribunal shall appoint a time for and hold the hearing and, on the application of the Registrar at the hearing, may by order direct the Registrar to carry out his proposal or refrain from carrying out his proposal and to take such action as the Tribunal considers the Registrar ought to take in accordance with this Act and the regulations, and for such purposes the Tribunal may substitute its opinion for that of the Registrar.

Powers of
Tribunal
where
hearing

(5) The Tribunal may attach such terms and conditions to its order or to the registration as it considers proper to give effect to the purposes of this Act.

Conditions
of order

(6) The Registrar, the applicant or registrant who has required the hearing and such other persons as the Tribunal may specify are parties to proceedings before the Tribunal under this section.

Parties

(7) Notwithstanding subsection (1), the Registrar may cancel a registration upon the request in writing of the registrant in the prescribed form surrendering his registration.

Voluntary
cancellation

(8) Where, within the time prescribed therefor or, if no time is prescribed, before expiry of his registration, a registrant has applied for renewal of his registration and paid the prescribed fee, his registration shall be deemed to continue,

Continuation
of
registration
pending
renewal

(a) until the renewal is granted; or

(b) where he is served with notice that the Registrar proposes to refuse to grant the renewal, until the time for giving notice requiring a hearing has expired

and, where a hearing is required, until the Tribunal has made its order.

Order
effective,
stay

R.S.O. 1980,
c. 274

(9) Notwithstanding that a registrant appeals from an order of the Tribunal under section 11 of the *Ministry of Consumer and Commercial Relations Act*, the order takes effect immediately but the Tribunal may grant a stay until disposition of the appeal. 1971, c. 50, s. 21 (2), *part*; 1972, c. 1, s. 23 (5).

Further
applications

9. A further application for registration may be made upon new or other evidence or where it is clear that material circumstances have changed. R.S.O. 1970, c. 71, s. 22; 1974, c. 29, s. 3, *part*.

Resident
require-
ments re
individuals

10.—(1) Subject to subsection (2), no individual shall carry on business in Ontario as a collection agency unless,

(a) he is a resident; or

(b) where he is a member of a partnership or an association, syndicate or organization of individuals, every member thereof is a resident.

Idem

(2) An individual who is carrying on business as a registered collection agency immediately before the 9th day of May, 1974, and who on that day is in contravention of subsection (1), may continue to carry on business, subject to the provisions of this Act if,

(a) his interest or any part thereof is not transferred to or for the benefit of a non-resident; or

(b) where he is a member of a partnership or an association, syndicate or organization of individuals, no person who is a non-resident is admitted as a member thereof. 1974, c. 29, s. 3, *part*.

Resident
require-
ments re
corporations

11.—(1) No corporation shall carry on business in Ontario as a collection agency if,

(a) the total number of equity shares of the corporation beneficially owned, directly or indirectly, by non-residents or over which non-residents exercise control or direction exceeds 25 per cent of the total number of issued and outstanding equity shares of the corporation;

(b) the total number of equity shares of the corporation beneficially owned, directly or indirectly, by a non-resident over which he exercises control

or direction together with any other shareholders associated with him, if any, exceeds 10 per cent of the total number of issued and outstanding equity shares of the corporation; or

- (c) the corporation is not incorporated by or under an Act of Ontario, Canada or any province or territory of Canada.

(2) In calculating the total number of equity shares ^{Idem} of the corporation beneficially owned or controlled for the purposes of this section, the total number shall be calculated as the total of all the shares actually owned or controlled, but each share that carries the right to more than one vote shall be calculated as the number of shares equalling the total number of votes it carries.

(3) A corporation that was carrying on business as a ^{Idem} registered collection agency immediately before the 9th day of May, 1974, and which on that day is in contravention of subsection (1), may continue to carry on business, subject to the provisions of this Act,

- (a) in the case of a contravention of clause (1) (a) or (b), if no transfer or equity shares or beneficial interest therein including their control or direction is made to a non-resident or person associated with him excepting when the result would be in compliance with clause (1) (a) or (b); or,

- (b) in the case of a contravention of clause (1) (c), until the 1st day of January, 1976 but a corporation incorporated after this Act comes into force and before the 1st day of January, 1976 by or under an Act of Ontario, Canada or a territory or province of Canada may, notwithstanding clauses (1) (a) and (b), be registered in the place of the first-mentioned corporation if the equity shares of the new corporation or beneficial interest therein including their control or direction, held by non-residents are held directly or indirectly in the same manner as the equity shares of the first-mentioned corporation, but where the new corporation is in contravention of clause (1) (a) or (b), clause (a) of this subsection applies.

(4) For the purpose of this section, a shareholder shall ^{Associated shareholders} be deemed to be associated with another shareholder if,

- (a) one shareholder is a corporation of which the other shareholder is an officer or director;

- (b) one shareholder is a partnership of which the other shareholder is a partner;
- (c) one shareholder is a corporation that is controlled, directly or indirectly, by the other shareholder;
- (d) both shareholders are corporations and one shareholder is controlled, directly or indirectly, by the same individual or corporation that controls, directly or indirectly, the other shareholder;
- (e) both shareholders are members of a voting trust where the trust relates to shares of a corporation; or
- (f) both shareholders are associated within the meaning of clauses (a) to (e) with the same shareholder.

Joint
ownership

(5) For the purposes of this section, where an equity share of the corporation is held jointly and one or more of the joint holders thereof is a non-resident, the share shall be deemed to be held by a non-resident. 1974, c. 29, s. 3, *part.*

Investiga-
tion of
complaints

12.—(1) Where the Registrar receives a complaint in respect of a collection agency and so requests in writing, the collection agency shall furnish the Registrar with such information respecting the matter complained of as the Registrar requires.

Idem

(2) The request under subsection (1) shall indicate the nature of the inquiry involved.

Idem

(3) For the purposes of subsection (1), the Registrar or any person designated in writing by him may at any reasonable time enter upon the business premises of the collection agency to make an inspection in relation to the complaint. R.S.O. 1970, c. 71, s. 23.

Inspection

13.—(1) The Registrar or any person designated by him in writing may at any reasonable time enter upon the business premises of the registrant to make an inspection to ensure that the provisions of this Act and the regulations relating to registration and the maintenance of trust accounts are being complied with.

Idem

(2) Where the Registrar has reasonable and probable grounds to believe that any person is acting as a collection agency

while unregistered, the Registrar or any person designated by him in writing may at any reasonable time enter upon such person's business premises to make an inspection for the purpose of determining whether or not the person is in contravention of section 4. R.S.O. 1970, c. 71, s. 24.

14.—(1) Upon an inspection under section 12 or 13, the person inspecting, Powers on inspection

- (a) is entitled to free access to all books of account, cash, documents, bank accounts, vouchers, correspondence and records of the person being inspected that are relevant for the purposes of the inspection; and
- (b) may, upon giving a receipt therefor, remove any material referred to in clause (a) that relates to the purpose of the inspection for the purpose of making a copy thereof, provided that such copying is carried out with reasonable dispatch and the material in question is promptly thereafter returned to the person being inspected,

and no person shall obstruct the person inspecting or withhold or destroy, conceal or refuse to furnish any information or thing required by the person inspecting for the purposes of the inspection. R.S.O. 1970, c. 71, s. 25 (1); 1971, c. 50, s. 21 (3).

(2) Any copy made as provided in subsection (1) and purporting to be certified by an inspector is admissible in evidence in any action, proceeding or prosecution as *prima facie* proof of the original. R.S.O. 1970, c. 71, s. 25 (2). Admissibility of copies

15. The Minister may by order appoint a person to make an investigation into any matter to which this Act applies as may be specified in the Minister's order and the person appointed shall report the result of his investigation to the Minister, and for the purposes of the investigation the person making it has the powers of a commission under Part II of the *Public Inquiries Act*, which Part applies to such investigation as if it were an inquiry under that Act. R.S.O. 1971, c. 50, s. 21 (4), *part*. Investigation on order of Minister
R.S.O. 1980, c. 411

16.—(1) Where, upon a statement made under oath, the Director believes on reasonable and probable grounds that any person has, Investigation by Director

- (a) contravened any of the provisions of this Act or the regulations; or

R.S.C. 1970,
c. C-34

- (b) committed an offence under the *Criminal Code* (Canada) or under the law of any jurisdiction that is relevant to his fitness for registration under this Act,

the Director may by order appoint one or more persons to make an investigation to ascertain whether such a contravention of the Act or regulation or the commission of such an offence has occurred and the person appointed shall report the result of his investigation to the Director.

Powers of
investigation

- (2) For purposes relevant to the subject-matter of an investigation under this section, the person appointed to make the investigation may inquire into and examine the affairs of the person in respect of whom the investigation is being made and may,

- (a) upon production of his appointment, enter at any reasonable time the business premises of such person and examine books, papers, documents and things relevant to the subject-matter of the investigation; and
- (b) inquire into negotiations, transactions, loans, borrowings made by or on behalf of or in relation to such person and into property, assets or things owned, acquired or alienated in whole or in part by him or any person acting on his behalf that are relevant to the subject-matter of the investigation,

and for the purposes of the inquiry, the person making the investigation has the powers conferred upon a commission under Part II of the *Public Inquiries Act*, which Part applies to such inquiry as if it were an inquiry under that Act.

R.S.O. 1980,
c. 411

Obstruction
of
investigator

- (3) No person shall obstruct a person appointed to make an investigation under this section or withhold from him or conceal or destroy any books, papers, documents or things relevant to the subject-matter of the investigation.

Entry and
search

- (4) Where a justice of the peace is satisfied, upon an *ex parte* application by the person making an investigation under this section, that the investigation has been ordered and that such person has been appointed to make it and that there is reasonable ground for believing there are, in any building, dwelling, receptacle or place any books, papers, documents or things relating to the person whose affairs are being investigated and to the subject-matter of the investigation, the justice of the peace may, whether or not an inspection has been made or attempted under clause (2) (a), issue an order authorizing the person making the investigation, together with such police officer or officers as he calls upon to assist him, to enter and search, if necessary by

force, such building, dwelling, receptacle or place for such books, papers, documents or things and to examine them, but every such entry and search shall be made between sunrise and sunset unless the justice of the peace, by the order, authorizes the person making the investigation to make the search at night.

(5) Any person making an investigation under this section may, upon giving a receipt therefor, remove any books, papers, documents or things examined under clause (2) (a) or subsection (4) relating to the person whose affairs are being investigated and to the subject-matter of the investigation for the purpose of making copies of such books, papers or documents, but such copying shall be carried out with reasonable dispatch and the books, papers or documents in question shall be promptly thereafter returned to the person whose affairs are being investigated. Removal of books, etc.

(6) Any copy made as provided in subsection (5) and certified to be a true copy by the person making the investigation is admissible in evidence in any action, proceeding or prosecution as *prima facie* proof of the original book, paper or document and its contents. Idem

(7) The Minister or the Director may appoint any expert to examine books, papers, documents or things examined under clause (2) (a) or under subsection (4). 1971, c. 50, s. 21 (4), *part*. Appointment of expert

17.—(1) Every person employed in the administration of this Act, including any person making an inquiry, inspection or an investigation under section 12, 13, 14, 15 or 16 shall preserve secrecy in respect of all matters that come to his knowledge in the course of his duties, employment, inquiry, inspection or investigation and shall not communicate any such matters to any other person except, Matters confidential

(a) as may be required in connection with the administration of this Act and the regulations or any proceedings under this Act or the regulations; or

(b) to his counsel; or

(c) with the consent of the person to whom the information relates.

(2) No person to whom subsection (1) applies shall be required to give testimony in any civil suit or proceeding with regard to information obtained by him in the course of his duties, employment, inquiry, inspection or investigation except in a proceeding under this Act or the regulations. 1971, c. 50, s. 21 (4), *part*. Testimony in civil suit

Report

18. Where, upon the report of an investigation made under subsection 16 (1), it appears to the Director that a person may have,

(a) contravened any of the provisions of this Act or the regulations; or

R.S.C. 1970,
c. C-34

(b) committed an offence, under the *Criminal Code* (Canada) or under the law of any jurisdiction, that is relevant to his fitness for registration under this Act,

the Director shall send a full and complete report of the investigation, including the report made to him, any transcript of evidence and any material in the possession of the Director relating thereto, to the Minister. R.S.O. 1970, c. 71, s. 27; 1971, c. 50, s. 21 (5).

Order to
refrain from
dealing
with assets

19.—(1) Where,

(a) an investigation of any person has been ordered under section 16; or

(b) criminal proceedings or proceedings in relation to a contravention of any Act or regulation are about to be or have been instituted against a person that are connected with or arise out of the business in respect of which such person is registered,

the Director, if he believes it advisable for the protection of clients or customers of the person referred to in clause (a) or (b), may in writing or by telegram direct any person having on deposit or under control or for safekeeping any assets or trust funds of the person referred to in clause (a) or (b) to hold such assets or trust funds or direct the person referred to in clause (a) or (b) to refrain from withdrawing any such assets or trust funds from any person having any of them on deposit or under control or for safekeeping or to hold such assets or any trust funds of clients, customers or others in his possession or control in trust for any interim receiver, custodian, trustee, receiver or liquidator appointed under the *Bankruptcy Act* (Canada), the *Judicature Act*, the *Corporations Act*, the *Business Corporations Act* or the *Winding-up Act* (Canada), or until the Director revokes or the Tribunal cancels such direction or consents to the release of any particular assets or trust funds from the direction but, in the case of a bank, loan or trust company, the direction only applies to the office, branches or agencies thereof named in the direction. 1971, c. 50, s. 21 (6).

R.S.O. 1980,
cc. 223, 95,
54
R.S.C. 1970,
cc. B-3,
W-10

Bond in lieu

(2) Subsection (1) does not apply where the person referred to in clause (1) (a) or (b) files with the Director,

- (a) a personal bond accompanied by collateral security;
- (b) a bond of a guarantee company approved under the *Guarantee Companies Securities Act*; or
- (c) a bond of a guarantor, other than a guarantee company, accompanied by collateral security,

R.S.O. 1980,
c. 192

in such form, terms and amount as the Director determines.

(3) Any person in receipt of a direction given under subsection (1), if in doubt as to the application of the direction to any assets or trust funds, or in case of a claim being made thereto by a person not named in the direction, may apply to a judge or local judge of the Supreme Court who may direct the disposition of such assets or trust funds and may make such order as to costs as seems just.

Applica-
tion for
direction

(4) In any of the circumstances mentioned in clause (1) (a) or (b), the Director may in writing or by telegram notify any land registrar that proceedings are being or are about to be taken that may affect land belonging to the person referred to in the notice, and the notice shall be registered against the lands mentioned therein and has the same effect as the registration of a certificate of *lis pendens* except that the Director may in writing revoke or modify the notice. R.S.O. 1970, c. 71, s. 28 (2-4).

Notice to
land
registrar

(5) Any person referred to in clause (1) (a) or (b) in respect of whom a direction has been given by the Director under subsection (1) or any person having an interest in land in respect of which a notice has been registered under subsection (4), may at any time apply to the Tribunal for cancellation in whole or in part of the direction or registration, and the Tribunal shall dispose of the application after a hearing and may, if it finds that such a direction or registration is not required in whole or in part for the protection of clients or customers of the applicant or of other persons interested in the land or that the interests of other persons are unduly prejudiced thereby, cancel the direction or registration in whole or in part, and the applicant, the Director and such other persons as the Tribunal may specify are parties to the proceedings before the Tribunal. 1971, c. 50, s. 21 (7).

Cancellation
of direction
or
registration

20.—(1) Every collection agency shall, within five days after the event, notify the Registrar in writing of,

Notice of
changes

- (a) any change in its address for service;

(b) any change in the officers in the case of a corporation or of the members in the case of a partnership;

(c) any commencement or termination of employment of a collector.

Idem

(2) Every collector shall, within five days after the event, notify the Registrar in writing of,

(a) any change in his address for service; and

(b) any commencement or termination of his employment.

Idem

(3) The Registrar shall be deemed to be notified under subsections (1) and (2) on the date on which he is actually notified or, where the notification is by mail, on the date of mailing. R.S.O. 1970, c. 71, s. 29.

Furnishing
material to
Registrar

21.—(1) The Registrar may at any time require a collection agency to provide him with copies of any letters, forms, form letters, notices, pamphlets, brochures, advertisements, contracts, agreements or other similar materials used or proposed to be used by the collection agency in the course of conducting its business. R.S.O. 1970, c. 71, s. 30 (1); 1971, c. 50, s. 21 (8).

False
advertising

(2) Where the Registrar believes on reasonable and probable grounds that any of the material referred to in subsection (1) is harsh, false, misleading or deceptive, the Registrar may alter, amend, restrict or prohibit the use of such material, and section 8 applies with necessary modifications to the order in the same manner as to a proposal by the Registrar to refuse registration and the order of the Registrar shall take effect immediately, but the Tribunal may grant a stay until the Registrar's order becomes final. 1971, c. 50, s. 21 (9).

Financial
statements

(3) Every collection agency shall, when required by the Registrar with the approval of the Director, file a financial statement showing the matters specified by the Registrar and signed by the proprietor or officer of the collection agency and certified by a person licensed under the *Public Accountancy Act*.

R.S.O. 1980,
c. 405

Statement
confidential

(4) The information contained in a financial statement filed under subsection (3) is confidential and no person shall otherwise than in the ordinary course of his duties communicate any such information or allow access to or inspection of the financial statement. R.S.O. 1970, c. 71, s. 30 (3, 4).

Practices
prohibited

22. No collection agency or collector shall,

- (a) collect or attempt to collect for a person for whom it acts any moneys in addition to the amount owing by the debtor;
- (b) send any telegram or make any telephone call, for which the charges are payable by the addressee or the person to whom the call is made, to a debtor for the purpose of demanding payment of a debt;
- (c) receive or make an agreement for the additional payment of any money by a debtor of a creditor for whom the collection agency acts, either on its own account or for the creditor and whether as a charge, cost, expense or otherwise, in consideration for any forbearance, favour, indulgence, intercession or other conduct by the collection agency; or
- (d) deal with a debtor in a name other than that authorized by the registration. R.S.O. 1970, c. 71, s. 31.

23. Every collector shall immediately notify his employer when any moneys are collected by him in the course of his employment. R.S.O. 1970, c. 71, s. 32.

24.—(1) No person shall knowingly engage or use the services of a collection agency that is not registered under this Act.

(2) No collection agency shall employ a collector or appoint or authorize a collector to act on its behalf unless the collector is registered under this Act. R.S.O. 1970, c. 71, s. 33.

25. Where the Registrar believes on reasonable and probable grounds that a collection agency is making false, misleading or deceptive statements in any advertisement, circular, pamphlet or similar material, the Registrar may order the immediate cessation of the use of such material, and section 8 applies with necessary modifications to the order in the same manner as to a proposal by the Registrar to refuse registration and the order of the Registrar shall take effect immediately, but the Tribunal may grant a stay until the Registrar's order becomes final. 1971, c. 50, s. 21 (10).

26.—(1) Any notice or order required to be given or served under this Act or the regulations is sufficiently given or served if delivered personally or sent by registered mail addressed to the person to whom delivery or service is required to be made at the latest address for service appearing on the records of the Ministry. R.S.O. 1970, c. 71, s. 35 (1); 1972, c. 1, s. 1.

When
service
deemed
made

(2) Where service is made by registered mail, the service shall be deemed to be made on the third day after the day of mailing unless the person on whom service is being made establishes that he did not, acting in good faith, through absence, accident, illness or other cause beyond his control receive the notice or order until a later date. 1971, c. 50, s. 21 (11).

Exception

(3) Notwithstanding subsections (1) and (2), the Tribunal may order any other method of service in respect of any matter before the Tribunal. R.S.O. 1970, c. 71, s. 35 (3).

Restraining
orders

27.—(1) Where it appears to the Director that any person does not comply with any provision of this Act, the regulations or an order made under this Act, notwithstanding the imposition of any penalty in respect of such non-compliance and in addition to any other rights he may have, the Director may apply to a judge of the High Court for an order directing such person to comply with such provision, and upon the application the judge may make such order or such other order as the judge thinks fit.

Appeal

(2) An appeal lies to the Divisional Court from an order made under subsection (1). R.S.O. 1970, c. 71, s. 36.

Offences

28.—(1) Every person who, knowingly,

- (a) furnishes false information in any application under this Act or in any statement or return required to be furnished under this Act or the regulations;
- (b) fails to comply with any order, direction or other requirement made under this Act; or
- (c) contravenes any provision of this Act or the regulations,

and every director or officer of a corporation who knowingly concurs in such furnishing, failure or contravention is guilty of an offence and on conviction is liable to a fine of not more than \$2,000 or to imprisonment for a term of not more than one year, or to both.

Corporations

(2) Where a corporation is convicted of an offence under subsection (1), the maximum penalty that may be imposed upon the corporation is \$25,000 and not as provided therein.

Consent of
Minister

(3) No proceeding under this section shall be instituted except with the consent of the Minister.

(4) No proceeding under clause (1) (a) shall be commenced more ^{Limitation} than one year after the facts upon which the proceeding is based first came to the knowledge of the Director.

(5) No proceeding under clause (1) (b) or (c) shall be commenced ^{Idem} more than two years after the time when the subject-matter of the proceeding arose. R.S.O. 1970, c. 71, s. 37.

29. A statement as to,

Certificate
as evidence

- (a) the registration or non-registration of any person;
- (b) the filing or non-filing of any document or material required or permitted to be filed with the Registrar;
- (c) the time when the facts upon which proceedings are based first came to the knowledge of the Director; or
- (d) any other matter pertaining to such registration, non-registration, filing or non-filing,

purporting to be certified by the Director is, without proof of the office or signature of the Director, receivable in evidence as *prima facie* proof of the facts stated therein for all purposes in any action, proceeding or prosecution. R.S.O. 1970, c. 71, s. 38; 1971, c. 50, s. 21 (12).

30. The Lieutenant Governor in Council may make regula- ^{Regulations} tions,

- (a) governing applications for registration or renewal of registration and prescribing terms and conditions of registration;
- (b) exempting persons or classes of persons from this Act or the regulations or any provisions thereof in addition to those exempted under section 2;
- (c) requiring the payment of fees on application for registration or renewal of registration and prescribing the amount thereof;
- (d) prescribing forms for the purposes of this Act and providing for their use;
- (e) requiring and governing the maintenance of trust accounts by collection agencies and prescribing the moneys that shall be held in trust and the terms and conditions thereof;

- (f) requiring and governing the books, accounts and records that shall be kept by collection agencies and requiring the accounting and remission of moneys to creditors in such manner and times as are prescribed, including the disposition of unclaimed money;
- (g) requiring collection agencies or any class thereof to be bonded in such form and terms and with such collateral security as are prescribed, and providing for the forfeiture of bonds and the disposition of the proceeds;
- (h) requiring collection agencies to make returns and furnish information to the Registrar;
- (i) requiring any information required to be furnished or contained in any form or return to be verified by affidavit;
- (j) prescribing further procedures respecting the conduct of matters coming before the Tribunal;
- (k) providing for the responsibility for payment of witness fees and expenses in connection with proceedings before the Tribunal and prescribing the amounts thereof;
- (l) prohibiting the use of any particular method in the collection of debts. R.S.O. 1970, c. 71, s. 39; 1974, c. 29, s. 4.

CHAPTER 74

Colleges Collective Bargaining Act

PART I

GENERAL

1. In this Act and in the Schedules,

Interpre-
tation

- (a) “agreement” means a written collective agreement between the Council on behalf of the employers and an employee organization covering terms and conditions of employment negotiable under this Act;
- (b) “bargaining unit” means the academic staff bargaining unit of employees or the support staff bargaining unit of employees set out in Schedules 1 and 2;
- (c) “board” means a board of governors of a college of applied arts and technology;
- (d) “Commission” means the College Relations Commission established under this Act;
- (e) “Council” means the Ontario Council of Regents for Colleges of Applied Arts and Technology;
- (f) “employee” means a person employed by a board of governors of a college of applied arts and technology in a position or classification that is within the academic staff bargaining unit or the support staff bargaining unit set out in Schedules 1 and 2;
- (g) “employee organization” means an organization of employees formed for the purpose of regulating relations between the employer and employees under this Act, but does not include such an organization of employees that discriminates against any employee because of age, sex, race, national origin, colour or religion;
- (h) “employer” means a board of governors of a college of applied arts and technology;

- (i) "lock-out" means the suspension of employment of, or the refusal to assign work to employees by a board with the view to compelling the cessation of a strike or preventing the resumption of a strike or with the view to inducing or persuading the employee organization that represents the employees to enter into or renew an agreement;
- (j) "matters in dispute" means matters in dispute that are within the scope of negotiations under this Act;
- (k) "party" means the Council or an employee organization;
- (l) "person employed in a managerial or confidential capacity" means a person who,
 - (i) is involved in the formulation of organization objectives and policy in relation to the development and administration of programs of the employer or in the formulation of budgets of the employer,
 - (ii) spends a significant portion of his time in the supervision of employees,
 - (iii) is required by reason of his duties or responsibilities to deal formally on behalf of the employer with a grievance of an employee,
 - (iv) is employed in a position confidential to any person described in subclause (i), (ii) or (iii),
 - (v) is employed in a confidential capacity in matters relating to employee relations,
 - (vi) is not otherwise described in subclauses (i) to (v) but who, in the opinion of the Ontario Labour Relations Board should not be included in a bargaining unit by reason of his duties and responsibilities to the employer;
- (m) "strike" includes a cessation of work, a refusal to work or to continue to work by employees in combination or in concert or in accordance with a common understanding or any concerted action or activity on the part of employees designed to curtail, restrict, limit or interfere with the operation or

functioning of a college or colleges including, without limiting the foregoing,

- (i) withdrawal of services,
 - (ii) slow-down in the performance of duties,
 - (iii) the giving of notice to terminate employment;
- (n) "vote by secret ballot" means a vote by ballots cast in such a manner that a person expressing his choice cannot be identified with the choice expressed. 1975, c. 74, s. 1.

2.—(1) This Act applies to all collective negotiations concerning terms and conditions of employment of employees. Application of Act

(2) No such collective negotiations shall be carried on except in accordance with this Act. Negotiations to be in accordance with Act

(3) The Council shall have the exclusive responsibility for all negotiations on behalf of employers conducted under this Act. 1975, c. 74, s. 2. Council to act on behalf of employers

PART II

NEGOTIATIONS

3. Negotiations shall be carried out in respect of any term or condition of employment put forward by either party, except for superannuation. 1975, c. 74, s. 4. Subject-matter of negotiations

4.—(1) Either party to an agreement may give written notice to the other party within the month of January in the year in which the agreement expires of its desire to negotiate with the view to the renewal, with or without modification of the agreement then in operation. Notice of desire to negotiate for renewal of agreement

(2) Where an agreement exists and no party to the agreement gives notice in accordance with this Act of its desire to negotiate with the view to the renewal of the agreement, the agreement continues in operation and is renewed from year to year, with each yearly period expiring on the 31st day of August, until the year, if any, in which notice is given in accordance with this Act of desire to negotiate with the view to the renewal, with or without modification, of the agreement. 1975, c. 74, s. 5. Where notice not given of desire to negotiate renewal of agreement

Obligation
to negotiate

5. The parties shall meet within thirty days from the giving of the notice under section 4 or 70 and they shall negotiate in good faith and make every reasonable effort to make an agreement or to renew the agreement, as the case requires. 1975, c. 74, s. 6.

Parties may
choose
procedures to
reach
agreement

6.—(1) The parties, at any time during negotiations to make or renew an agreement, may agree to,

- (a) request the Commission to assign a person to assist the parties to make or renew the agreement;
- (b) request the Commission to appoint a fact finder as provided in Part III; or
- (c) refer all matters remaining in dispute between them that may be provided for in an agreement to,
 - (i) an arbitrator or a board of arbitration for determination as provided in Part IV, or
 - (ii) a selector for determination as provided in Part V.

Effect of
choice of
procedure

(2) The agreement to refer all matters remaining in dispute between them to an arbitrator or board of arbitration or a selector shall be deemed to include a provision that there will be no strike or lock-out. 1975, c. 74, s. 7.

Where
Commission
may assign
person to
assist parties

7. The Commission may, in the exercise of its own discretion, at any time assign a person to assist the parties to make or renew an agreement. 1975, c. 74, s. 8.

PART III

FACT FINDING

Appointment
of fact
finder

8. The Commission shall appoint forthwith a person as a fact finder during negotiations to make or renew an agreement if the parties have not referred all matters remaining in dispute between them to an arbitrator or board of arbitration as provided in Part IV or a selector as provided in Part V and,

- (a) one or both of the parties gives notice to the Commission that an impasse has been reached in the negotiations and requests the appointment of a fact finder, and the Commission approves the request;

- (b) the Commission is of the opinion that an impasse has been reached in the negotiations; or
- (c) the agreement that was in operation in respect of the parties expires during negotiations between the parties to make or renew an agreement, and fact finding has not taken place as provided in this Part. 1975, c. 74, s. 9.

9. The parties to negotiations to make or renew an agreement may, notwithstanding the appointment of a fact finder,

Parties may proceed to make agreement or to arbitration or selection procedure

- (a) make or renew the agreement; or
- (b) agree to refer all matters remaining in dispute between them to,
 - (i) an arbitrator or a board of arbitration for determination as provided in Part IV, or
 - (ii) a selector for determination as provided in Part V,

and upon the giving of notice to the Commission by the parties that they have so acted, the appointment of the fact finder is terminated. 1975, c. 74, s. 10.

10. The agreement to refer all matters remaining in dispute between them to an arbitrator or board of arbitration or a selector shall be deemed to include a provision that there will be no strike or lock-out. 1975, c. 74, s. 11.

Effect of choice of procedure

11. No person shall be appointed a fact finder who has a direct pecuniary interest in the matters coming before him or who is acting or has, within the period of six months immediately before the date of his appointment, acted as solicitor, counsel, negotiator, advisor or agent of either of the parties or a board. 1975, c. 74, s. 12.

Persons prohibited as fact finder

12. Where a fact finder ceases to act by reason of withdrawal, death or otherwise before submitting his report to the Commission, the Commission shall appoint another person in his stead and such person shall commence the work of the fact finder *de novo*. 1975, c. 74, s. 13.

Vacancy

13. Where the Commission appoints a fact finder, the Commission shall give written notice to each of the parties

Notice of appointment of fact finder

of the appointment of and the name and address of the fact finder. 1975, c. 74, s. 14.

Notice of
matters
agreed upon
and matters
in dispute

14.—(1) Within seven days after the receipt of notice from the Commission of the appointment of the fact finder, each party shall give written notice to the fact finder and to the other party setting out all the matters that the parties have agreed upon for inclusion in an agreement and all the matters remaining in dispute between the parties.

Where
notice
not given

(2) Where a party fails to comply with subsection (1), the fact finder may make a determination of the matters mentioned in subsection (1) and may then proceed pursuant to this Part. 1975, c. 74, s. 15.

Duty of
fact finder

15.—(1) It is the duty of a fact finder to confer with the parties and to inquire into, ascertain and make a report setting out the matters agreed upon by the parties for inclusion in an agreement and the matters remaining in dispute between the parties.

What report
may contain

(2) A fact finder may, in his report, include his findings in respect of any matter that he considers relevant to the making of an agreement between the parties and recommend terms of settlement of the matters remaining in dispute between the parties. 1975, c. 74, s. 16.

Matters
that may be
considered
by fact
finder

16. In inquiring into and ascertaining the matters remaining in dispute between the parties, the fact finder may inquire into and consider any matter that the fact finder considers relevant to the making of an agreement between the parties including, without limiting the foregoing,

- (a) the conditions of employment in occupations outside the teaching sector;
- (b) the effect of geographic or other local factors on the terms and conditions of employment;
- (c) the cost to the employers of the proposal of either party;
- (d) the interests and welfare of the public. 1975, c. 74, s. 17.

Procedure
of fact
finder

17. The fact finder shall determine his own procedure under guidelines established by the Commission and, where the fact finder requests information from a party, the party

shall, acting in good faith, provide the fact finder with full and complete information. 1975, c. 74, s. 18.

18. The fact finder shall submit his report to the Commission within thirty days after the date of his appointment or within such longer period of time as the Commission may direct and the Commission shall forthwith give a copy of the report to each of the parties. 1975, c. 74, s. 19.

Submission
of report of
fact finder

19. The report of the fact finder is not binding on the parties but is made for the advice and guidance of the parties and upon receipt of the report the parties shall endeavour, in good faith, to make an agreement or to renew the agreement, as the case may be 1975, c. 74, s. 20.

Report not
binding

20.—(1) Where the Commission has given a copy of the report of the fact finder to each of the parties and the Commission is of the opinion that the parties will or are likely to benefit from assistance, the Commission may assign a person to assist the parties to make or renew, as the case may be, the agreement.

Assignment
of assistance

(2) Where the Commission has given a copy of the report of the fact finder to each of the parties and both of the parties request assistance from the Commission, the Commission shall assign a person to assist the parties to make or renew, as the case may be, the agreement. 1975, c. 74, s. 21.

Idem

21.—(1) If the parties make or renew, as the case may be, an agreement within fifteen days after the Commission has given a copy of the report to each of the parties, the report shall not be made public by the Commission, either of the parties or by any person.

Where report
confidential

(2) If the parties do not make an agreement, or renew the agreement, as the case may be, within the period of time specified in subsection (1), the Commission shall make public the report of the fact finder.

Release of
report

(3) Notwithstanding subsections (1) and (2), where both parties agree and the Commission approves, the Commission may defer making public the report of the fact finder for an additional period of not more than five days. 1975, c. 74, s. 22.

Deferring of
report

22.—(1) If the parties do not make or renew, as the case may be, an agreement within fifteen days after the Commission has given a copy of the report of the fact finder to each of

Parties
may agree
to refer
matters in
dispute

the parties, the parties may agree to refer all matters in dispute between them that may be provided for in an agreement to,

(a) an arbitrator or a board of arbitration for determination as provided in Part IV; or

(b) a selector for determination as provided in Part V.

Effect of
choice of
procedure

(2) The agreement to refer all matters remaining in dispute between them to an arbitrator or board of arbitration or a selector shall be deemed to include a provision that there will be no strike or lock-out. 1975, c. 74, s. 23.

PART IV

VOLUNTARY BINDING ARBITRATION

Parties to
give notice to
Commission
where
arbitration
agreed
upon

23.—(1) Where the parties agree to refer all matters remaining in dispute between them that may be provided for in an agreement to an arbitrator or a board of arbitration, the parties shall jointly give written notice to the Commission that they have so agreed and the notice shall state,

(a) that the parties agree to refer the matters to an arbitrator and,

(i) the date of appointment and the name and address of the arbitrator, or

(ii) that the parties have not appointed the arbitrator and that the parties request the Commission to appoint the arbitrator; or

(b) that the parties agree to refer the matters to a board of arbitration and,

(i) that the parties have each appointed a person as a member of the board of arbitration and shall set out the names and addresses of the two members so appointed, or

(ii) that both of the parties or one of them, as the case may be, has not appointed a person as a member of the board of arbitration and that the parties request the Commission to appoint the members or member, as the case may be, of the board.

Party not to
withdraw

(2) Except as provided in section 49, a party shall not withdraw from arbitration proceedings under this Part after

notice is given to the Commission in accordance with subsection (1).

(3) Where the parties, in the notice mentioned in subsection (1), request the Commission to appoint the arbitrator or the members or one of the members of the board of arbitration, the Commission shall make the appointment or appointments and shall forthwith thereafter give notice thereof to the parties setting out the name and address of the appointee or the names and addresses of the appointees, as the case may be, together with the date of the appointment or appointments.

Where
appoint-
ments made
by
Commission

(4) Where the parties agree to refer all matters remaining in dispute between them to a board of arbitration, the two members of the board of arbitration shall, within ten days after the giving of notice of their appointment by the parties or by the Commission, as the case may be, appoint a third person to be chairman of the board of arbitration and the chairman shall forthwith give written notice to the Commission of his appointment.

Appointment
of chairman
by members

(5) Where the two members of the board of arbitration are unable to appoint or to agree on the appointment of the chairman of the board of arbitration within the period of time set out in subsection (4), the Commission shall appoint the chairman and shall give notice of the appointment to the two members and to the parties and the notice shall set out the name and address of the person appointed and the date of the appointment. 1975, c. 74, s. 24.

Where
Commission
to appoint
chairman

24. No person shall be appointed an arbitrator or member or chairman of a board of arbitration who has a direct pecuniary interest in the matters coming before him or who is acting or has, within the period of six months immediately before the date of his appointment, acted as solicitor, counsel, negotiator, advisor or agent of either of the parties or a board. 1975, c. 74, s. 25.

Persons
prohibited
as arbitrator
or members
or chairmen
of board of
arbitration

25.—(1) Where a member of a board of arbitration is unable to enter on or to carry on his duties so as to enable a decision to be rendered within the period of time required by subsection (2) or ceases to act by reason of withdrawal or death before the board of arbitration has completed its work, a replacement shall be appointed by the party that appointed the member, or failing such appointment, by the Commission and the board of arbitration shall continue to function as if such member were a member of the board of arbitration from the beginning.

Vacancy

Where
chairman
unable to act

(2) Where the chairman of a board of arbitration is unable to enter on or to carry on his duties so as to enable a decision to be rendered within sixty days after his appointment or within such longer period of time as may be provided in writing by the board of arbitration and consented to by the Commission or ceases to act by reason of withdrawal or death, the Commission shall give notice thereof to the members of the board of arbitration who shall, within seven days of the giving of the notice, appoint a person to be the chairman and if the appointment is not so made by the members it shall be made by the Commission, and after the chairman is appointed the arbitration shall begin *de novo*.

Where
arbitrator
unable to
act

(3) Where an arbitrator is unable to enter on or to carry on his duties so as to enable a decision to be rendered within sixty days after his appointment or within such longer period of time as may be provided in writing by the arbitrator and consented to by the Commission or ceases to act by reason of withdrawal or death, the Commission shall give notice thereof to the parties who shall, within seven days of the giving of the notice, appoint a person to be the arbitrator and if the appointment is not so made it shall be made by the Commission and after the arbitrator is appointed the arbitration shall begin *de novo*. 1975, c. 74, s. 26.

Notice of
matters
agreed upon
and matters
in dispute

26. Within seven days after the giving of notice that the arbitrator or the chairman of the board of arbitration, as the case may be, has been appointed, each party shall give written notice to the arbitrator or chairman and to the other party setting out all the matters that the parties have agreed upon for inclusion in an agreement and all the matters remaining in dispute between the parties. 1975, c. 74, s. 27.

Procedure

27.—(1) The arbitrator or board of arbitration shall determine his or its own procedure but shall give full opportunity to the parties to present their evidence and make their submissions.

Idem

(2) If the members of a board of arbitration are unable to agree among themselves on matters of procedure or as to the admissibility of evidence, the decision of the chairman governs.

Decision

(3) The decision of a majority of a board of arbitration is the decision of the board, but if there is no majority, the

decision of the chairman is the decision of the board. 1975, c. 74, s. 28.

28.—(1) The arbitrator or board of arbitration has power, Powers of arbitrator or board of arbitration

(a) to summon any person,

(i) to give oral or written evidence on oath or affirmation to the arbitrator or board of arbitration, or

(ii) to produce in evidence for the arbitrator or board of arbitration such documents and other things as the arbitrator or board of arbitration may specify;

(b) to administer oaths and affirmations;

(c) to accept for or exclude from consideration any oral testimony, document or other thing, whether admissible in a court of law or not.

(2) Where any person without lawful excuse,

(a) on being duly summoned under subsection (1) as a witness before the arbitrator or board of arbitration, as the case may be, makes default in so attending;

Stated case for contempt for failure to attend, etc.

(b) being in attendance as a witness before the arbitrator or board of arbitration, as the case may be, refuses to take an oath or to make an affirmation legally required by the arbitrator or board of arbitration to be taken or made, or to produce any document or thing in his power or control legally required by the arbitrator or board of arbitration to be produced to him or it, or to answer any question to which the arbitrator or board of arbitration may legally require an answer; or

(c) does any other thing that would, if the arbitrator or board of arbitration had been a court of law having power to commit for contempt, have been contempt of that court,

the arbitrator or board of arbitration may state a case to the Divisional Court setting out the facts and that court may, on the application of the arbitrator or board of arbitration, inquire into the matter and, after hearing any witnesses who may be produced against or on behalf of that person

and after hearing any statement that may be offered in defence, punish or take steps for the punishment of that person in like manner as if he had been guilty of contempt of the court. 1975, c. 74, s. 29.

Duty of arbitrator or board of arbitration

29.—(1) The arbitrator or board of arbitration shall inquire into, consider and decide on all matters remaining in dispute between the parties.

Matters that may be considered by arbitrator or board of arbitration

(2) In the conduct of proceedings before him or it and in reaching a decision in respect of a matter in dispute, the arbitrator or board of arbitration may inquire into and consider any matter that the arbitrator or board of arbitration considers relevant to the making of an agreement between the parties. 1975, c. 74, s. 30.

Time for report of arbitrator or board of arbitration

30.—(1) The arbitrator or board of arbitration shall complete the consideration of all matters in dispute between the parties and shall report in writing his or its decision on the matters to the parties and to the Commission within sixty days after the giving of notice of the appointment of the arbitrator or of the appointment of the chairman of the board of arbitration, as the case may be, or within such longer period of time as may be provided in writing by the arbitrator or board of arbitration and consented to by the Commission.

Effect of decision

(2) The decision of the arbitrator or board of arbitration is binding upon the parties and they shall comply in good faith with the decision.

Reference back to arbitrator or board of arbitration

(3) The arbitrator or board of arbitration may, upon application by either party to a decision within ten days after the release of the decision, subject to affording the parties the opportunity to make representations thereupon to the arbitrator or board of arbitration amend, alter or vary the decision where it is shown to the satisfaction of the arbitrator or board of arbitration that it has failed to deal with any matter in dispute referred to it or that an error is apparent on the face of the decision. 1975, c. 74, s. 31.

Preparation and execution of documents

31.—(1) Within thirty days after receipt by the parties of the report of the arbitrator or board of arbitration, as the case may be, the parties shall prepare a document giving effect to all matters agreed upon by the parties and the decision of the arbitrator or board of arbitration and shall execute the document and thereupon it constitutes an agreement.

Where arbitrator or board of arbitration to prepare document

(2) If the parties fail to execute the document within the period of time mentioned in subsection (1), the arbitrator or

board of arbitration, as the case may be, shall prepare the document and submit it to the parties and shall fix the time within which and the place where the parties shall execute the document.

(3) If the parties or either of them fail to execute the document within the time fixed by the arbitrator or the board of arbitration, the document shall be deemed to be in effect as though it had been executed by the parties and the document thereupon constitutes an agreement. 1975, c. 74, s. 32.

Failure to
execute
document

PART V

FINAL OFFER SELECTION

32.—(1) Where the parties agree to refer all matters remaining in dispute between them that may be provided for in an agreement to a selector, the parties shall jointly give written notice to the Commission that they have so agreed and the notice shall state that the parties agree to refer the matters to a selector and,

Parties to
give notice to
Commission
where
selection
agreed upon

(a) the date of appointment and the name and address of the selector; or

(b) that the parties have not appointed the selector and that the parties request the Commission to appoint the selector.

(2) The parties shall, together 'with the notice mentioned in subsection (1), give to the Commission a written statement signed by the parties setting out that neither party will withdraw from the proceedings after the final offers of the parties have been submitted to the selector and that the decision of the selector will be accepted by the parties as binding upon them.

Statement
by parties

(3) Except as provided in section 49, where the parties give to the Commission a written statement in accordance with subsection (2), a party shall not withdraw from the proceedings after the final offer of either of the parties has been submitted to the selector.

Party not to
withdraw

(4) Where the parties request the Commission to appoint the selector, the Commission shall make the appointment and give notice of the appointment of the selector to the parties and the notice shall set out the name and address of the person appointed and the date of the appointment. 1975, c. 74, s. 33.

Where
Commission
appoints
selector

33. No person shall be appointed a selector who has a direct pecuniary interest in the matters coming before him or who is acting or has, within the period of six months

Persons
prohibited
as selector

immediately before the date of his appointment, acted as solicitor, counsel, negotiator, advisor or agent of either of the parties or a board. 1975, c. 74, s. 34.

Selector
unable to
act

34. Where a selector is unable to enter on or to carry on his duties so as to enable a decision to be rendered within the time specified by this Act or such longer period of time as may be provided in writing by the selector and consented to by the Commission or ceases to act by reason of withdrawal or death, the Commission shall give notice thereof to the parties who shall, within seven days of the giving of the notice, appoint a person to be the selector, and if the appointment is not so made by the parties it shall be made by the Commission, and after the selector is appointed, the selection procedure shall begin *de novo*. 1975, c. 74, s. 35.

Notice of
matters
agreed upon
and matters
in dispute

35. Within seven days after the giving of notice that the selector has been appointed, the parties shall jointly give written notice to the selector setting out all the matters that the parties have agreed upon for inclusion in an agreement and all the matters remaining in dispute between the parties. 1975, c. 74, s. 36.

Notice of
final offer

36. Within fifteen days after the giving of notice that the selector has been appointed, each party shall give written notice to the selector setting out the final offer of the party on all the matters remaining in dispute between the parties and may submit with the notice a written statement in support of the final offer set out in the notice. 1975, c. 74, s. 37.

Final offer of
opposite
party

37. Upon receiving the notices of the parties setting out the final offer of each party, the selector shall forthwith give to each party a copy of the notice setting out the final offer of the opposite party on all the matters remaining in dispute between the parties together with a copy of the statement, if any, of the opposite party submitted in support of the final offer of the opposite party. 1975, c. 74, s. 38.

Written
response

38. Each party may, within ten days after being given a copy of the final offer and supporting statement, if any, of the opposite party, give to the selector a written reply and the selector shall forthwith give a copy of the reply of each party to the opposite party. 1975, c. 74, s. 39.

Hearing

39. Within fifteen days after each party has been given a copy of the final offer and supporting statement, if any, of the opposite party, or within such longer period of time as may be provided in writing by the selector and consented to by the Commission, the selector shall hold a hearing in respect of the matters remaining in dispute between the parties and may, before making a selection, hold a further hearing or hearings. 1975, c. 74, s. 40.

40. The parties may agree to dispense with a hearing by the selector and in such case may jointly give written notice to the selector that they have so agreed, and the selector, upon receipt of the notice, shall not hold a hearing but shall proceed to his decision. 1975, c. 74, s. 41.

Parties may
dispense
with hearing

41.—(1) The selector shall determine his own procedure but, in holding a hearing, shall give full opportunity to the parties to present their evidence and make their submissions.

Procedure

(2) The selector has power,

Powers of
selector

(a) to summon any person,

(i) to give oral or written evidence on oath or affirmation to the selector, or

(ii) to produce in evidence for the selector such documents and other things as the selector may specify;

(b) to administer oaths and affirmations;

(c) to accept for or exclude from consideration any oral testimony, document or other thing, whether admissible in a court of law or not.

(3) Where any person without lawful excuse,

Contempt
proceedings

(a) on being duly summoned under subsection (2) as a witness before the selector makes default in so attending;

(b) being in attendance as a witness before the selector refuses to take an oath or to make an affirmation legally required by the selector to be taken or made, or to produce any document or thing in his power or control legally required by the selector to be produced to him, or to answer any question to which the selector may legally require an answer; or

(c) does any other thing that would, if the selector had been a court of law having power to commit for contempt, have been contempt of that court,

the selector may state a case to the Divisional Court setting out the facts and that court may, on the application of the selector, inquire into the matter and, after hearing any witnesses who may be produced against or on behalf of that person and after hearing any statement that may be

offered in defence, punish or take steps for the punishment of that person in like manner as if he had been guilty of contempt of the court. 1975, c. 74, s. 42.

Selection
of final
offer

42. The selector shall, within fifteen days after the conclusion of the hearing or hearings or within fifteen days after the giving of the notice by the parties that they have agreed to dispense with a hearing, as the case may be, or within such longer period of time as may be provided in writing by the selector and consented to by the Commission, make a decision selecting all of one of the final offers on all matters remaining in dispute between the parties given to the selector by one or the other of the parties. 1975, c. 74, s. 43.

Effect of
decision

43. The decision of the selector is binding upon the parties and they shall comply in good faith with the decision. 1975, c. 74, s. 44.

Preparation
and
execution of
document by
parties

44.—(1) Within thirty days after receipt of notice of the decision of the selector, the parties shall prepare a document giving effect to all matters agreed upon by the parties and the decision of the selector and shall execute the document and thereupon it constitutes an agreement.

Where
selector to
prepare
document

(2) If the parties fail to execute the document within the period of time mentioned in subsection (1), the selector shall prepare the document and submit it to the parties and shall fix the time within which and the place where the parties shall execute the document.

Failure to
execute
document

(3) If the parties or either of them fail to execute the document within the time fixed by the selector, the document shall be deemed to be in effect as though it had been executed by the parties and the document thereupon constitutes an agreement. 1975, c. 74, s. 45.

PART VI

AGREEMENTS

Term of
agreement

45. Every agreement shall,

- (a) provide for a term of operation of not less than one year;
- (b) state that it is effective on and after the 1st day of September in the year in which it is to come into operation; and
- (c) state that it expires on the 31st day of August in the year in which it ceases to operate. 1975, c. 74, s. 46 (1).

46.—(1) Every agreement shall provide for the final and binding settlement by arbitration of all differences between an employer and the employee organization arising from the interpretation, application, administration or alleged contravention of the agreement including any question as to whether a matter is arbitrable. ^{Arbitration provision}

(2) Unless an agreement otherwise provides for the final and binding settlement of all differences between an employer and the employee organization arising from the interpretation, application, administration or alleged contravention of the agreement, the agreement is deemed to include the following provision: ^{Idem}

Where a difference arises between an employer and the employee organization relating to the interpretation, application or administration of this agreement, or where an allegation is made that this agreement has been contravened, including any question as to whether the matter is arbitrable, either the employer or the employee organization may, after exhausting any grievance procedure established by this agreement, notify the other in writing of its desire to submit the difference or allegation to arbitration and the notice shall contain the name of its appointee to an arbitration board. The recipient of the notice shall within five days inform the other either that it accepts the other's appointee as a single arbitrator or inform the other of the name of its appointee to the arbitration board. Where two appointees are so selected they shall, within five days of the appointment of the second of them, appoint a third person who shall be the chairman. If the recipient of the notice fails to appoint an arbitrator or if the two appointees fail to agree upon a chairman within the time limited, the appointment shall be made by the Commission upon the request of either the employer or the employee organization. The single arbitrator or the arbitration board, as the case may be, shall hear and determine the difference or allegation and shall issue a decision and the decision is final and binding upon the employer and the employee organization and upon any employee affected by it. The decision of a majority is the decision of the arbitration board, but, if there is no majority, the decision of the chairman governs. The arbitrator or arbitration board, as the case may be, shall not by his or its decision add to, delete from, modify or otherwise amend the provisions of this agreement.

Powers of
arbitrator
or board of
arbitration

(3) An arbitrator or chairman of an arbitration board, as the case may be, referred to in this section, has the same powers as an arbitrator or board of arbitration under subsection 28 (1).

Penalty
where
employee
disciplined,
etc.

(4) Where an arbitrator or arbitration board referred to in this section determines that a disciplinary penalty or dismissal of an employee is excessive, the arbitrator or arbitration board, as the case may be, may substitute such other penalty for the discipline or dismissal as the arbitrator or arbitration board considers just and reasonable in all the circumstances.

Decision

(5) The decision of an arbitrator or of an arbitration board is final and binding upon the employer, employee organization and upon the employees covered by the agreement who are affected by the decision, and such employer, employee organization and employees shall do or refrain from doing anything required of them by the decision.

Enforcement

(6) Where an employer, employee organization or an employee has failed to comply with any of the terms of the decision of an arbitrator or arbitration board, any employer, employee organization or employee affected by the decision may, after the expiration of fourteen days from the date of the release of the decision or the date provided in the decision for compliance, whichever is later, file in the office of the Registrar of the Supreme Court a copy of the decision, exclusive of the reasons therefor, in the prescribed form, whereupon the decision shall be entered in the same way as a judgment or order of that court and is enforceable as such.

Remuner-
ation and
expenses

(7) The employer and employee organization shall each pay one-half the remuneration and expenses of the arbitrator or chairman of the arbitration board referred to in this section and shall pay the remuneration and expenses of the person it appoints to such an arbitration board.

Application
of
R.S.O. 1980,
cc. 25, 484

(8) The *Arbitrations Act* and the *Statutory Powers Procedure Act* do not apply to arbitration proceedings under this section. 1975, c. 74, s. 47.

Provision
against
strikes and
lock-outs

47.—(1) Every agreement shall provide that there will be no strike or lock-out during the term of the agreement or of any renewal of the agreement.

Statutory
provision

(2) If an agreement does not contain the provision mentioned in subsection (1), the agreement shall be deemed to contain the following provision:

"There shall be no strike or lock-out during the term of this agreement or of any renewal of this agreement".
1975, c. 74, s. 48.

48.—(1) No agreement, decision of an arbitrator, board of arbitration or selector shall contain any term that would require either directly or indirectly for its implementation the enactment or amendment of legislation. Agreement not to require legislative implementation

(2) Where a conflict appears between any provision of an agreement and any provision of any legislation, the provision of the legislation prevails. 1975, c. 74, s. 49. Conflict

49. Where the parties agree on all the matters to be included in an agreement, whether during or at the conclusion of negotiations or other proceedings under this Act, they shall prepare a document incorporating all the matters agreed upon and shall execute the document and the document thereupon constitutes an agreement. 1975, c. 74, s. 50. Where agreement reached

50. Upon the execution of an agreement, each party to the agreement shall forthwith give written notice thereof, together with a copy of the agreement, to the Commission. 1975, c. 74, s. 51. Notice to Commission of execution of agreement

51. An agreement is binding upon the Council, the employers and the employee organization that is a party to it and upon the employees in the bargaining unit covered by the agreement. 1975, c. 74, s. 52 (1). Binding effect of agreement

52. Every agreement shall be deemed to provide that the employee organization that is a party thereto is recognized as the exclusive bargaining agent for the bargaining unit to which the agreement applies. 1975, c. 74, s. 53. Recognition provision

53.—(1) The parties to an agreement may provide for the payment by the employees of dues or contributions to the employee organization. Payment of dues to employee organization

(2) Where the Ontario Labour Relations Board is satisfied that an employee because of his religious convictions or belief objects to paying dues or contributions to an employee organization, the Ontario Labour Relations Board shall order that the provisions of the agreement pertaining thereto do not apply to such employee and that the employee is not required to pay dues or contributions to the employee Where objection to dues because of religious belief

R.S.C. 1952,
c. 148

organization, provided that amounts equivalent thereto are remitted by the employer to a charitable organization mutually agreed upon by the employee and the employee organization and failing such agreement then to such charitable organization registered as such under Part I of the *Income Tax Act* (Canada) as may be designated by the Ontario Labour Relations Board.

Requiring
membership
in employee
organization
prohibited

(3) No agreement shall contain a provision which would require, as a condition of employment, membership in the employee organization. 1975, c. 74, s. 54.

Working
conditions
may not be
altered

54.—(1) Where notice has been given by either party to an agreement under section 4, except as altered by an agreement in writing by the parties, the terms and provisions of the agreement then in operation shall continue to operate until there is a right to strike or lock-out as provided in this Act.

Idem

(2) Where notice has been given by the employee organization under section 70, the conditions then in effect applicable to or binding upon the Council, the employer, the employee organization or the employees which are subject to negotiations within the meaning of this Act shall not be altered without the consent of the Council, the employer, the employee organization or the employees, as the case may be, until there is a right to strike or lock-out as provided in this Act. 1975, c. 74, s. 55.

PART VII

COLLEGE RELATIONS COMMISSION

Commission
established

55.—(1) There shall be a commission to be known as the College Relations Commission composed of five persons who shall be appointed by the Lieutenant Governor in Council.

Chairman
and vice-
chairman

(2) The Lieutenant Governor in Council shall designate a chairman and a vice-chairman from among the members of the Commission.

Acting
chairman

(3) In the case of the absence or inability to act of the chairman or of there being a vacancy in the office of the chairman, the vice-chairman shall act as and have all the powers of the chairman, and, in the absence of the chairman and vice-chairman from any meeting of the Commission, the members of the Commission present at the meeting shall appoint an acting chairman who shall act as and have all the powers of the chairman during the meeting.

(4) The members of the Commission shall be appointed ^{Term of office} for a term of one, two or three years so that as nearly as possible one-third of the members shall retire each year.

(5) Every vacancy on the Commission caused by the ^{Vacancy} death, resignation or incapacity of a member may be filled by the appointment by the Lieutenant Governor in Council of a person to hold office for the remainder of the term of such member.

(6) Each of the members of the Commission is eligible ^{Re-appointment} for reappointment upon the expiration of his term of office.

(7) Three members of the Commission constitute a quorum ^{Quorum} and are sufficient for the exercise of all the authority of the Commission.

(8) The powers of the Commission shall be exercised by ^{Exercising powers} resolution and the Commission may pass resolutions governing the calling of and the proceedings at meetings and specifying the powers and duties of employees of the Commission and generally dealing with the carrying out of its duties.

(9) The members of the Commission shall be paid such ^{Remuneration} remuneration and expenses as are determined by the Lieutenant Governor in Council.

(10) Subject to the approval of the Lieutenant Governor ^{Officers, staff, etc.} in Council, the Commission may,

(a) establish job classifications, salary ranges and terms and conditions of employment for its employees; and

(b) appoint and pay such employees as are considered proper.

(11) The *Public Service Superannuation Act* applies to the ^{R.S.O. 1980, c. 419} permanent employees of the Commission as though the Commission had been designated by the Lieutenant Governor in Council under section 28 of that Act. ^{applicable}

(12) The Commission may engage persons other than ^{Professional and other assistance} those employed pursuant to subsection (10) to provide professional, technical or other assistance to or on behalf of the Commission, and may prescribe the terms of engagement and provide for payment of the remuneration and expenses of such persons. 1975, c. 74, s. 56.

Duties of
Commission

56.—(1) It is the duty of the Commission,

- (a) to carry out the duties imposed on it by this Act and such other functions as may, in the opinion of the Commission, be necessary to carry out the intent and purpose of this Act;
- (b) to maintain an awareness of negotiations between the parties;
- (c) to compile statistical information on the supply, distribution, professional activities and salaries of employees;
- (d) to provide such assistance to parties as may facilitate the making or renewing of agreements;
- (e) to select and, where necessary, to train persons who may act as mediators, fact finders, arbitrators or selectors;
- (f) to determine, at the request of either party or in the exercise of its discretion, whether or not either of the parties is or was negotiating in good faith and making every reasonable effort to make or renew an agreement;
- (g) to determine the manner of conducting and to supervise votes by secret ballot pursuant to this Act; and
- (h) to advise the Lieutenant Governor in Council when, in the opinion of the Commission, the continuance of a strike, lock-out or closing of a college or colleges will place in jeopardy the successful completion of courses of study by the students affected by the strike, lock-out or closing of the college or colleges.

Provision
of
information

(2) The Commission may request an employer to provide information necessary to compile the statistical information referred to in clause (1) (c) and an employer shall comply with such a request within a reasonable period of time.

Annual
report

(3) The Commission shall annually prepare a report on the affairs of the Commission for the preceding year and the report shall be tabled in the Legislature. 1975, c. 74, s. 57.

57. No member of, or person employed or engaged by, the Commission shall be required to give testimony in any proceeding under this Act or before a court or tribunal with regard to information obtained by him in the discharge of his duties as a member of or person employed or engaged by the Commission. 1975, c. 74, s. 58.

Testimony by
member of
Commission

58. The moneys required for the purposes of the Commission shall be paid out of the moneys appropriated therefor by the Legislature. 1975, c. 74, s. 59, *revised*.

Moneys

PART VIII

STRIKES AND LOCK-OUTS

59.—(1) No employee shall strike unless,

Strike

- (a) there is no agreement in operation between the Council and the employee organization that represents the employee;
- (b) notice of desire to negotiate to make or renew an agreement has been given by either party;
- (c) all the matters remaining in dispute between the Council and the employee organization that represents the employee have been referred to a fact finder and fifteen days have elapsed after the Commission has made public the report of the fact finder;
- (d) the offer of the Council in respect of all matters remaining in dispute between the parties last received by the employee organization that represents the employee is submitted to and rejected by the employees in the bargaining unit by a vote by secret ballot conducted under the supervision of and in the manner determined by the Commission;
- (e) the employees in the bargaining unit have voted, not earlier than the vote referred to in clause (d) and not before the end of the fifteen-day period referred to in clause (c), in favour of a strike by a vote by secret ballot conducted under the supervision of and in the manner determined by the Commission; and

- (f) after a vote in favour of a strike in accordance with clause (e), the employee organization that represents the employee gives the Council and the employer written notice of the strike and of the date on which the strike will commence at least five days before the commencement of the strike.

Where employees deemed to take part in strike

(2) Where the employee organization gives notice of a lawful strike, all employees in the bargaining unit concerned shall be deemed to be taking part in the strike from the date on which the strike is to commence, as set out in the written notice, to the date on which the employee organization gives written notice to the Council and the employer that the strike is ended, and no employee shall be paid salary or benefits during such period.

Resumption of strike

(3) Where a strike is ended without an agreement coming into effect, no employee shall resume striking or engage in a new strike except after the provisions of clauses (1) (d), (e) and (f) have again been complied with in respect of such resumption or new strike. 1975, c. 74, s. 60.

Unlawful strike

60.—(1) No employee organization shall call or authorize or threaten to call or authorize an unlawful strike.

Idem

(2) No officer, official, or agent of an employee organization shall counsel, procure, support or encourage an unlawful strike or threaten an unlawful strike. 1975, c. 74, s. 61.

Unlawful lock-out

61.—(1) The Council shall not and no employer shall call or authorize or threaten to call or authorize an unlawful lock-out.

Idem

(2) No officer, official, or agent of the Council or of an employer shall counsel, procure, support or encourage an unlawful lock-out or threaten an unlawful lock-out. 1975, c. 74, s. 62.

Declaration of unlawful strike

62.—(1) Where the employee organization calls or authorizes a strike or employees engage in a strike that the Council or an employer alleges is unlawful, the Council or the employer may apply to the Ontario Labour Relations Board for a declaration that the strike is unlawful, and the Board may make the declaration.

Declaration of unlawful lock-out

(2) Where the Council or employer calls or authorizes a lock-out of employees that the employee organization con-

cerned alleges is unlawful, such employee organization may apply to the Ontario Labour Relations Board for a declaration that the lock-out is unlawful, and the Board may make the declaration.

(3) Where the Ontario Labour Relations Board makes a ^{Direction by O.L.R.B.} declaration under subsection (1) or (2), the Board in its discretion may, in addition, direct what action if any a person, employee, employee organization, Council or employer and their officers, officials or agents shall do or refrain from doing with respect to the unlawful strike or unlawful lock-out.

(4) The Ontario Labour Relations Board shall file in the ^{Enforcement of direction by S.C.O.} office of the Registrar of the Supreme Court a copy of a direction made under subsection (3), exclusive of the reasons therefor, whereupon the direction shall be entered in the same way as a judgment or order of the court and is enforceable as such. 1975, c. 74, s. 63.

63.—(1) No employer shall lock-out employees unless, ^{Lock-out}

- (a) there is no agreement in operation between the Council and the employee organization that represents the employees;
- (b) notice of desire to negotiate or make or renew an agreement has been given by the Council to the employee organization that represents the employees or by the employee organization that represents the employees to the Council and the Council has negotiated in good faith and made every reasonable effort to make or renew an agreement;
- (c) all the matters remaining in dispute between the Council and the employee organization that represents the employees have been referred to a fact finder and thirty days have elapsed after the Commission has given a copy of the report of the fact finder to each of the parties;
- (d) the Council on behalf of all employers gives the employee organization that represents the employees written notice of the lock-out and of the date on which the lock-out will commence at least five days before the commencement of the lock-out.

(2) Where a lawful strike is declared or authorized or ^{Closing of college} employees engage in a lawful strike, the employer may, with the approval of the Council, close a college or any part thereof where the employer is of the opinion that,

- (a) the safety of students enrolled in the college may be endangered;
- (b) the college buildings or the equipment or supplies therein may not be adequately protected during the strike; or
- (c) the strike will substantially interfere with the operation of the college,

and may keep the college or any part thereof closed until the employee organization that called or authorized the strike or that represents the employees engaged in the strike gives written notice to the Council and the employer that the strike is ended.

Where
lock-out
deemed

(3) Where the Council gives notice of a lawful lock-out, all employers shall be deemed to be taking part in the lock-out from the date on which the lock-out is to commence set out in the written notice and an employee in the bargaining unit concerned is not entitled to be paid his salary and benefits in respect of the days on which he is prevented from performing his duty as the result of action by an employer pursuant to subsection (1) or (2). 1975, c. 74, s. 64.

Continua-
tion of
employment

64. For the purposes of this Act, no person shall be deemed to have ceased to be an employee by reason only of his ceasing to work for his employer as the result of a lawful lock-out or lawful strike or by reason only of his being dismissed by his employer contrary to this Act or to a collective agreement. 1975, c. 74, s. 65.

PART IX

REPRESENTATION RIGHTS

Membership
in employee
organization

65. Every person is free to join an employee organization of his own choice and to participate in its lawful activities. 1975, c. 74, s. 66.

Application
for
bargaining
rights

66.—(1) Where an agreement is for a term of not more than three years, an employee organization may apply to the Ontario Labour Relations Board for bargaining rights as bargaining agent of the employees in the bargaining unit only during the month of December immediately prior to the termination date of the agreement.

Idem

(2) Where an agreement is for a term of more than three years, an employee organization may apply to the Ontario

Labour Relations Board for bargaining rights as bargaining agent of the employees in the bargaining unit only during the month of December,

- (a) in the third year of operation of the agreement; or
- (b) in each year of operation of the agreement after the third year. 1975, c. 74, s. 67.

67.—(1) The bargaining units set out in the Schedules are the units for collective bargaining purposes under this Act. Bargaining units

(2) The employee organization that is party to the agreement covering the academic staff bargaining unit or the support staff bargaining unit on the 18th day of July, 1975 shall be deemed to have been granted bargaining rights in relation to such bargaining unit on the 18th day of July, 1975. 1975, c. 74, s. 68, *revised*. Employee organization that has bargaining rights

68.—(1) Upon an application for bargaining rights by an employee organization claiming not less than 35 per cent of the employees in the appropriate bargaining unit as members, the Ontario Labour Relations Board upon satisfying itself that not less than 35 per cent of such employees are members of the employee organization shall direct that a representation vote be taken. Representation vote

(2) If, on the taking of a representation vote, more than 50 per cent of the ballots cast are in favour of the employee organization, the Ontario Labour Relations Board shall grant bargaining rights to the employee organization as the bargaining agent of the employees in the bargaining unit. 1975, c. 74, s. 69. Bargaining rights

69. The Ontario Labour Relations Board shall not grant bargaining rights to any employee organization in the formation or administration of which there has been or is, in the opinion of the Ontario Labour Relations Board, participation by the Council, or an employer or any person acting on behalf of the Council or an employer of such a nature as to impair the employee organization's fitness to represent the interest of employees in the bargaining unit. 1975, c. 74, s. 70. Where participation by Council or employer

70. Upon being granted bargaining rights under section 68, the employee organization may give the Council written notice of its desire to negotiate with a view to making an agreement. 1975, c. 74, s. 71. Notice of desire to negotiate

71.—(1) If an employee organization does not enter into an agreement with the Council within one year after being granted bargaining rights or fails to give notice of its Application for termination of representation rights

intention to bargain as provided under section 70 and no such notice has been given by the Council, the Council or any employee in the bargaining unit concerned may apply to the Ontario Labour Relations Board for a declaration that the employee organization no longer represents the employees in the bargaining unit.

Idem

(2) Any employee in the bargaining unit covered by an agreement may apply to the Ontario Labour Relations Board for a declaration that the employee organization no longer represents the employees in the bargaining unit only during the month of December immediately prior to the termination date of the agreement.

Representation vote

(3) Upon the application under subsection (2), the Ontario Labour Relations Board shall ascertain the number of employees in the bargaining unit at the time the application was made and if a majority of the employees in the bargaining unit have voluntarily signified in writing that they no longer wish to be represented by the employee organization, the Ontario Labour Relations Board shall conduct a representation vote to determine whether or not the employees desire that the right of the employee organization to bargain on their behalf be terminated.

Result of vote

(4) If, on the taking of the representation vote, more than 50 per cent of the ballots cast are in opposition to the employee organization, the Ontario Labour Relations Board shall declare that the employee organization that was granted bargaining rights or that was or is a party to the agreement, as the case may be, no longer represents the employees in the bargaining unit.

Effect of termination

(5) Upon the Ontario Labour Relations Board declaring that the employee organization no longer represents the employees in the bargaining unit, the employee organization ceases to have such representation rights and any agreement in operation between the employee organization and the Council that is binding upon the employees in the bargaining unit ceases to operate and any decision of an arbitrator, board of arbitration or selector applying to the bargaining unit ceases to have effect. 1975, c. 74, s. 72.

Termination of rights where employee organization desires or has ceased to act

72.—(1) Where the Ontario Labour Relations Board is advised by an employee organization that it wishes to be released of its representation rights in respect of a bargaining unit or where the Ontario Labour Relations Board, upon application by the employer or any employee in a bargaining unit represented by an employee organization, determines that the employee organization has ceased to act

on behalf of the employees, the Ontario Labour Relations Board shall declare that the employee organization no longer represents the employees in the bargaining unit.

(2) Where the Ontario Labour Relations Board is satisfied that an employee organization has obtained representation rights in respect of a bargaining unit by fraud, the Ontario Labour Relations Board shall declare that the employee organization no longer represents the employees in the bargaining unit. Where rights obtained by fraud

(3) Upon the Ontario Labour Relations Board declaring that the employee organization no longer represents the employees in the bargaining unit, the employee organization ceases to have such bargaining rights and any agreement in operation between the employee organization and the Council that is binding upon the employees in the bargaining unit ceases to operate and any decision made by an arbitrator, board of arbitration or selector, applying to the bargaining unit ceases to have effect. 1975, c. 74, s. 73. Effect of termination

73. No person shall attempt at the employee's place of employment to persuade him to become or refrain from becoming a member of an employee organization, except as the Council and an employee organization may otherwise agree. 1975, c. 74, s. 74. Persuasion at place of work

74. Nothing in this Act prohibits any suspension or discontinuance for cause of an employer's operations or the quitting of employment for cause if the suspension, discontinuance or quitting does not constitute a lock-out or strike. 1975, c. 74, s. 75. Suspension or quitting for cause

75.—(1) No person who is acting on behalf of the Council or an employer shall participate in or interfere with the selection, formation or administration of an employee organization or the representation of employees by such an organization, but nothing in this section shall be deemed to deprive the Council or an employer or any person acting on behalf of the Council or an employer of his freedom to express his views so long as he does not use coercion, intimidation, threats, promises or undue influence. Interference with employee organization prohibited

(2) The Council, an employer or any person acting on behalf of an employer shall not, Interference with employees rights prohibited

- (a) refuse to employ or to continue to employ or discriminate against a person with regard to employment or any term or condition of employment because the person is exercising any right under this Act or is or is not a member of an employee organization;

(b) impose any condition on an appointment or in a contract of employment that seeks to restrain an employee or a person seeking employment from becoming a member of an employee organization or exercising any right under this Act;

(c) seek by intimidation, by threat of dismissal or by any other kind of threat or by the imposition of a pecuniary or any other penalty or by any other means to compel an employee to become or refrain from becoming or to continue or cease to be a member of an employee organization, or to refrain from exercising any other right under this Act,

but no person shall be deemed to have contravened this subsection by reason of any act or thing done or omitted in relation to a person employed in a managerial or confidential capacity.

Intimidation
and
coercion

(3) No person or employee organization shall seek by intimidation or coercion to compel any person to become or refrain from becoming or to continue to be or to cease to be a member of an employee organization or to refrain from exercising any other rights under this Act or from performing any obligations under this Act. 1975, c. 74, s. 76.

Duty of fair
represent-
ation

76. An employee organization shall not act in a manner that is arbitrary, discriminatory or in bad faith in the representation of any of the employees, whether members of the employee organization or not. 1975, c. 74, s. 77.

Inquiry by
investigator

77.—(1) The Ontario Labour Relations Board may appoint an investigator with authority to inquire into a complaint that,

(a) a person has been refused employment, discharged, discriminated against, threatened, coerced, intimidated or otherwise dealt with contrary to this Act as to his employment, opportunity for employment or conditions of employment;

(b) a person has been suspended, expelled or penalized in any way contrary to section 79;

(c) an employee organization, employer or any person or persons has acted in any way contrary to section 76 or 80.

Duties

(2) The investigator shall forthwith inquire into the complaint and endeavour to effect a settlement of the matter.

(3) The investigator shall report the results of his inquiry ^{Report} and endeavours to the Ontario Labour Relations Board.

(4) Where an investigator is unable to effect a settle- ^{Inquiry by Board}ment of the matter or where the Ontario Labour Relations Board in its discretion considers it advisable to dispense with an inquiry by an investigator, the Ontario Labour Relations Board may inquire into the complaint and,

- (a) if the Ontario Labour Relations Board is satisfied that the person concerned has been refused employment, discharged, discriminated against, threatened, coerced, intimidated or otherwise dealt with contrary to this Act as to his employment, opportunity for employment or conditions of employment by the Council, employer or by any person or employee organization it shall determine what, if anything, the Council, employer, person or employee organization shall do or refrain from doing with respect thereto, and such determination may include the hiring or reinstatement in employment of the person concerned, with or without compensation or compensation in lieu of hiring or reinstatement for loss of earnings and other employment benefits for which compensation may be assessed against the Council, employer, person or employee organization, jointly or severally, and the Council, employer, person or employee organization shall, notwithstanding the provisions of any agreement, do or abstain from doing anything required of them or any of them by the determination;
- (b) if the Ontario Labour Relations Board is satisfied that the person concerned has been suspended, expelled or penalized in any way contrary to section 79 it shall so declare and thereupon the suspension, expulsion or penalty is void; or
- (c) if the Ontario Labour Relations Board is satisfied that the employee organization, Council, employer, person or employee concerned has acted contrary to section 76 or 80, it shall determine what, if anything, the employee organization, Council, employer, person or employee shall do or refrain from doing with respect thereto, and such determination may include compensation for loss of earnings and other employment benefits and the employee organization, Council, employer, person or employee shall, notwithstanding the provisions of any agreement, do or abstain from doing anything required of them or it.

Effect of
settlement

(5) Where the matter complained of has been settled, whether through the endeavours of the investigator or otherwise, and the terms of the settlement have been put in writing and signed by the parties or their representatives, the settlement is binding upon the parties, the employee organization, Council, employer, person or employee who have agreed to the settlement and shall be complied with according to its terms and a complaint that the employee organization, Council, employer, person or employee who has agreed to the settlement has not complied with the terms of the settlement shall be deemed to be a complaint under clause (1) (a), (b) or (c), as the case may be.

Records of
employee
organization

(6) The records of an employee organization relating to membership or any records that may disclose whether a person is or is not a member of an employee organization or does or does not desire to be represented by an employee organization produced in a proceeding before the Ontario Labour Relations Board is for the exclusive use of the Ontario Labour Relations Board and its officers and shall not, except with the consent of the Ontario Labour Relations Board, be disclosed and no person shall, except with the consent of the Ontario Labour Relations Board be compelled to disclose whether a person is or is not a member of an employee organization or does or does not desire to be represented by an employee organization. 1975, c. 74, s. 78.

Causing
unlawful
strikes

78. No person shall do any act if he knows or ought to know that, as a probable and reasonable consequence of the act, another person or persons will take any action contrary to section 59. 1975, c. 74, s. 79.

Refusal to
engage in
unlawful
strike

79. No employee organization shall suspend, expel or penalize in any way a member because he has refused to engage in or to continue to engage in any action contrary to section 59. 1975, c. 74, s. 80.

Protection
of witnesses'
rights

80.—(1) The Council or an employer or any person acting on behalf of the Council or an employer shall not,

- (a) refuse to employ or continue to employ a person;
- (b) threaten dismissal or otherwise threaten a person;
- (c) discriminate against a person in regard to employment or a term or condition of employment; or
- (d) intimidate or coerce or impose a pecuniary or other penalty on a person,

because of a belief that he may testify in a proceeding under this Act or because he has made or is about to make a disclosure that may be required of him in a proceeding under this Act or because he has made an application or filed a complaint under this Act or because he has participated or is about to participate in a proceeding under this Act.

(2) No employee organization or person acting on behalf ^{Idem} of an employee organization shall,

- (a) discriminate against a person in regard to employment or a term or condition of employment; or
- (b) intimidate or coerce or impose a pecuniary or other penalty on a person,

because of a belief that he may testify in a proceeding under this Act or because he has made or is about to make a disclosure that may be required of him in a proceeding under this Act or because he has made an application or filed a complaint under this Act or because he has participated or is about to participate in a proceeding under this Act. 1975, c. 74, s. 81.

81. If, in the course of bargaining for an agreement or during the period of operation of an agreement, a question arises as to whether a person is an employee, including a question as to whether a person employed as a chairman, department head, director, foreman or supervisor is employed in a managerial or confidential capacity pursuant to clause 1 (l) and the Schedules, the question may be referred to the Ontario Labour Relations Board and its decision thereon is final and binding for all purposes. 1975, c. 74, s. 82.

Whether
person
employee

82.—(1) The Ontario Labour Relations Board shall exercise such powers and perform such duties as are conferred upon it by this Act and has power,

Powers of
Ontario
Labour
Relations
Board

- (a) to enter any premises of an employer where work is being or has been done by the employees or in which an employer carries on business and inspect and view any work, material, machinery, appliance or article therein, and interrogate any person respecting any matter;
- (b) to enter upon the premises of an employer and conduct representation votes during working hours and give such directions in connection with the vote as it considers necessary;

(c) to authorize any person to do anything that the Ontario Labour Relations Board may do under clauses (a) and (b) and to report to the Ontario Labour Relations Board thereon;

(d) to determine the form in which and the time as of which evidence of membership in an employee organization or of objection by employees to representation rights of an employee organization or of signification by employees that they no longer wish to be represented by an employee organization shall be presented to the Ontario Labour Relations Board on an application for representation rights or for a declaration terminating representation rights, and to refuse to accept any evidence of membership or objection or signification that is not presented in the form and as of the time so determined; and

(e) to administer oaths and affirmations.

Decisions

(2) The decision of the majority of the members of the Ontario Labour Relations Board present and constituting a quorum is the decision of the Ontario Labour Relations Board, but, if there is no majority, the decision of the chairman or vice-chairman governs.

Practice and procedure, etc.

(3) The Ontario Labour Relations Board shall determine its own practice and procedure but shall give full opportunity to the parties to any proceedings to present their evidence and to make their submissions, and the Ontario Labour Relations Board may, subject to the approval of the Lieutenant Governor in Council, make rules governing its practice and procedure and the exercise of its powers and prescribing such forms as are considered advisable. 1975, c. 74, s. 83.

PART X

MISCELLANEOUS

Copies of notices to be given to Commission

83. Where, under this Act, a party is required to give notice to another party, the party giving the notice shall also within the same time limit, if any, give a copy of the notice to the Commission. 1975, c. 74, s. 84.

Decisions, etc., of Commission and others not subject to review

84.—(1) No decision, order, determination, direction, declaration or ruling of the Commission, a fact finder, an arbitrator or board of arbitration, a selector or the Ontario Labour Relations Board shall be questioned or reviewed in any court, and no order shall be made or process entered, or proceedings taken in any court, whether by way of injunction, declaratory judgment, certiorari, mandamus,

prohibition, quo warranto, application for judicial review or otherwise, to question, review, prohibit or restrain the Commission, fact finder, arbitrator or board of arbitration, selector or the Ontario Labour Relations Board or the proceedings of any of them.

(2) No proceedings under this Act are invalid by reason of any defect of form or any technical irregularity and no such proceedings shall be quashed or set aside if no substantial wrong or miscarriage of justice has occurred. 1975, c. 74, s. 85. Defects in form. technical irregularities

85. Any notice or document required or authorized by this Act to be given shall, Service of notice

- (a) where it is to be given to the Commission, be delivered to the office of the Commission;
- (b) where it is to be given to the Council or an employer, be delivered to the office of the Council or the employer, as the case may require;
- (c) where it is to be given to an employee organization, be delivered to an officer of the employee organization;
- (d) where it is to be given to an arbitrator or selector, be delivered to the arbitrator or selector; and
- (e) where it is to be given to a board of arbitration, be delivered to the chairman. 1975, c. 74, s. 86.

86.—(1) The expenditures incurred by a party in respect of a person appointed or retained by the party for the purpose of making or renewing an agreement shall be borne by the party and all other expenses, including fees for a single arbitrator, a selector or a chairman of a board of arbitration shall be shared equally by the parties and such expenditures and fees shall be paid within sixty days after the agreement or renewal of agreement is executed or is deemed in effect as though it had been executed by the parties. Costs

(2) The fees and expenses, if any, of persons assigned by the Commission to assist parties to make or renew an agreement and of fact finders appointed by the Commission shall be paid by the Commission. 1975, c. 74, s. 87. Idem

87.—(1) Where the Ontario Labour Relations Board directs, an employee organization shall file with the Ontario Labour Relations Board, within the time prescribed in the direction, a copy of its constitution and by-laws, and a statement signed by its president or secretary setting out the names and addresses of its officers. Officers, constitution, etc.

Duty to
furnish
financial
statements

(2) Every employee organization that represents employees shall upon the request of any employee furnish him, without charge, with a copy of the audited financial statement of its affairs to the end of its last fiscal year certified by its treasurer or other officer responsible for the handling and administration of its funds to be a true copy, and, upon the complaint of any employee that the employee organization has failed to furnish such a statement to him, the Ontario Labour Relations Board may direct the employee organization to file with the Registrar, within such time as the Ontario Labour Relations Board may determine, a copy of the audited financial statement of its affairs to the end of its last fiscal year verified by the affidavit of its treasurer or other officer responsible for the handling and administration of its funds and to furnish a copy of such statement to such employees as the Ontario Labour Relations Board in its discretion may direct, and the employee organization shall comply with such direction according to its terms.

Representative for
service of
process

(3) Every employee organization that represents employees or applies to represent employees under this Act shall file with the Ontario Labour Relations Board a notice giving the name and address of a person in Ontario who is authorized by the employee organization to accept on its behalf service of process and notices under this Act, and service on the person named in such notice is good and sufficient service for the purposes of this Act on the employee organization that filed the notice. 1975, c. 74, s. 88.

Vote by
secret
ballot

88. Where an employee organization conducts a vote of employees,

(a) for the purposes of subsection 59 (1); or

(b) to give approval to the terms of an agreement,

the vote shall be a vote by secret ballot conducted under the supervision of and in the manner determined by the Commission. 1975, c. 74, s. 89.

Contra-
vention of
Act by
person

89.—(1) Every person who contravenes any provision of this Act is guilty of an offence and on conviction is liable to a fine of not more than \$500 for each day upon which the contravention occurs or continues.

Contra-
vention of
Act by
employer or
employee
organization

(2) Every employer and every employee organization that contravenes any provision of this Act is guilty of an offence and on conviction is liable to a fine of not more than \$10,000 for each day upon which such contravention occurs or continues.

(3) The contravention of a decision, order, determination, direction, declaration or ruling made under this Act is deemed for the purposes of this section, to be a contravention of this Act. Contra-vention of decision, etc.

(4) Where an employer or employee organization is guilty of an offence under this Act, every officer, official or agent thereof who assents to the commission of the offence shall be deemed to be a party to and guilty of the offence and is liable to a fine under subsection (1) as if he had been convicted of an offence under subsection (1). Where officer guilty of offence

(5) An information in respect of a contravention of any provision of this Act may be for one or more offences and no information, warrant, conviction or other proceedings in any such prosecution is objectionable or insufficient by reason of the fact that it relates to two or more offences. Information

(6) No prosecution for an offence under this Act shall be instituted except with the consent of the Ontario Labour Relations Board which may only be granted after affording an opportunity to the person or body seeking the consent and the person or body sought to be prosecuted to be heard. 1975, c. 74, s. 90. Consent to prosecution

90. A prosecution for an offence under this Act may be instituted against any body, association or organization in the name of the body, association or organization whether or not the body, association or organization is a body corporate and, for the purposes of any such prosecution, any unincorporated body, association or organization shall be deemed to be a body corporate. 1975, c. 74, s. 91. Style of prosecution

91. Any act or thing done or omitted by an officer, official or agent of the Council, employer or employee organization within the apparent scope of his authority to act on behalf of the Council, employer or employee organization shall be deemed to be an act or thing done or omitted by the Council, employer or employee organization, as the case may be. 1975, c. 74, s. 92. Vicarious responsibility

92. Notwithstanding any other provision of this Act,

(a) the Minister of Colleges and Universities;

(b) the Deputy Minister of Colleges and Universities;

(c) a person employed in a position confidential to the Minister of Colleges and Universities or the Deputy Minister of Colleges and Universities;

Compellability of witnesses

- (d) the chairman, a vice-chairman or a member or employee of the Ontario Labour Relations Board;
- (e) an arbitrator or member or chairman of a board of arbitration; or
- (f) a selector,

is not a compellable witness in any proceeding under this Act or before a court or tribunal. 1975, c. 74, s. 93.

Application
of
R.S.O. 1980,
c. 25

93.—(1) The *Arbitrations Act* does not apply to proceedings under this Act.

Idem,
R.S.O. 1980,
c. 484

(2) The *Statutory Powers Procedure Act* applies to proceedings of the Ontario Labour Relations Board but does not apply to other proceedings under this Act. 1975, c. 74, s. 95.

SCHEDULE 1

The academic staff bargaining unit includes the employees of all boards of governors of colleges of applied arts and technology who are employed as teachers, counsellors or librarians but does not include,

- (i) chairmen,
- (ii) department heads,
- (iii) directors,
- (iv) persons above the rank of chairman, department head or director,
- (v) other persons employed in a managerial or confidential capacity,
- (vi) teachers who teach for six hours or less per week,
- (vii) counsellors and librarians employed on a part-time basis,
- (viii) teachers, counsellors or librarians who are appointed for one or more sessions and who are employed for not more than twelve months in any twenty-four month period,
- (ix) a person who is a member of the architectural, dental, engineering, legal or medical profession, entitled to practise in Ontario and employed in a professional capacity, or
- (x) a person engaged and employed outside Ontario.

1975, c. 74, Sched. 1.

SCHEDULE 2

The support staff bargaining unit includes the employees of all boards of governors of colleges of applied arts and technology employed in positions or classifications in the office, clerical, technical, health care, maintenance, building service, shipping, transportation, cafeteria and nursery staff but does not include,

- (i) foremen,
- (ii) supervisors,
- (iii) persons above the rank of foreman or supervisor,
- (iv) persons employed in a confidential capacity in matters related to employee relations or the formulation of a budget of a college of applied arts and technology or of a constituent campus of a college of applied arts and technology including persons employed in clerical, stenographic or secretarial positions,
- (v) other persons employed in a managerial or confidential capacity,
- (vi) persons regularly employed for not more than twenty-four hours a week,
- (vii) students employed in a co-operative educational training program undertaken with a school, college or university,

- (viii) a graduate of a college of applied arts and technology during the period of twelve months immediately following completion of a course of study or instruction at the college by the graduate if the employment of the graduate is associated with a certification, registration or other licensing requirement,
- (ix) a person engaged for a project of a non-recurring kind,
- (x) a person who is a member of the architectural, dental, engineering, legal or medical profession, entitled to practise in Ontario and employed in a professional capacity, or
- (xi) a person engaged and employed outside Ontario.

1975, c. 74, Sched. 2.

CHAPTER 75

Commissioners for taking
Affidavits Act

1. In this Act, a "county" includes a provisional county^{Interpretation} and a provisional judicial district. R.S.O. 1970, c. 72, s. 1.

2.—(1) Every member of the Assembly is *ex officio* a^{Members of Assembly} commissioner for taking affidavits in Ontario.

(2) Every person who is entitled to practise law in^{Barristers and solicitors} Ontario as a barrister and solicitor is *ex officio* a commissioner for taking affidavits in Ontario. R.S.O. 1970, c. 72, s. 2, (1, 2).

(3) The clerk, deputy clerk and treasurer of every municipality, including a metropolitan or regional municipality,^{Municipal clerks and treasurers} are *ex officio* commissioners for taking affidavits,

(a) in the case of a county or a metropolitan or regional municipality, in the county or the metropolitan or regional municipality, respectively; or

(b) in the case of a municipality other than a county or a metropolitan or regional municipality, in the county or the metropolitan or regional municipality in which the municipality is situate. 1973, c. 17, s. 1 (1).

(4) In every local municipality having a population of 100,000 or more, the administrative head of any department^{Heads of departments, etc.} responsible for building standards, welfare, assessment or planning and his deputy and the medical officer of health are *ex officio* commissioners for taking affidavits in the county in which the municipality is situate for the purposes of the affairs of the municipality. R.S.O. 1970, c. 72, s. 2 (4).

(5) The head of every municipal council, the reeve of every town, every deputy reeve, and every controller and alderman of a municipality are and shall be deemed always to have been *ex officio* commissioners for taking affidavits in the county, district or metropolitan or regional municipality in which the municipality is situate. R.S.O. 1970, c. 72, s. 2 (5); 1973, c. 17, s. 1 (2).

Improvement
districts

(6) The chairman, vice-chairman and secretary-treasurer of every improvement district are, and shall be deemed always to have been, *ex officio* commissioners for taking affidavits in the county or district in which the improvement district is situate. R.S.O. 1970, c. 72, s. 2 (6).

County and
district
courts

3. The judges and clerks of the county and district courts may take affidavits required to be taken in their respective courts. R.S.O. 1970, c. 72, s. 3.

Commissioners for
specific
purposes

4. The Lieutenant Governor may confer upon such officers and employees of the Income Tax Division, the Department of National Revenue (Canada) or any ministry of the Government of Ontario as he designates full power to administer oaths and take affidavits in connection with the performance of their official duties, but limited as the Lieutenant Governor may determine. R.S.O. 1970, c. 72, s. 4; 1972, c. 1, s. 2.

Appointment
of commis-
sioners

5.—(1) The Lieutenant Governor may by commission empower any person of the age of eighteen years or over to administer oaths and take affidavits authorized by law within or outside Ontario or subject to such limits as to duration, territory or purpose as the Lieutenant Governor may specify in the appointment. R.S.O. 1970, c. 72, s. 5 (1); 1971, c. 98, s. 4, Sched., par. 8.

Appointment
of officials of
corporations

(2) Upon application therefor and payment of the prescribed fee,

R.S.O. 1980,
c. 91

(a) the secretary and treasurer of each corporation with share capital or incorporated under the *Co-operative Corporations Act* that has its head office in Ontario; and

(b) the principal officer in each branch office in Ontario of a corporation with share capital or incorporated under the *Co-operative Corporations Act*,

may be appointed commissioners for taking affidavits in Ontario for the purposes of the affairs of the corporation. R.S.O. 1970, c. 72, s. 5 (2); 1973, c. 104, s. 1 (2).

Period of
appointment

(3) The appointment of every such person appointed within Ontario shall be for a period of three years, but any such appointment may from time to time be renewed for a period of three years.

Style of com-
missioners

(4) A commissioner so appointed shall be styled "A commissioner for taking affidavits in and for the courts in Ontario". R.S.O. 1970, c. 72, s. 5 (3, 4).

6. Every commissioner whose commission is limited in its duration or as to territory or purpose shall indicate the limitation by means of a stamp approved by the Inspector of Legal Offices affixed under his signature. R.S.O. 1970, c. 72, s. 6.

Limitations to be stated

7. Every commissioner may take any affidavit in any wise concerning any proceeding to be had in any court in Ontario or before a judge of any such court, and in or concerning any application or matter made or pending before any judge of any court in Ontario which by any statute such judge is authorized to hear and determine or in which he is authorized to make an order, although the application or matter be not made or depending in any court. R.S.O. 1970, c. 72, s. 7.

Extent of commissioner's authority

8. Every commissioner has power to take declarations in cases in which declarations may be taken or may be required under any Act in force in Ontario. R.S.O. 1970, c. 72, s. 8.

Commissioners may take declarations

9. The Lieutenant Governor may revoke the commission of any commissioner. R.S.O. 1970, c. 72, s. 9.

Revocation of commissions

10. Every oath and declaration shall be taken by the deponent in the presence of the commissioner, notary public, justice of the peace or other officer or person administering the oath or declaration who shall satisfy himself of the genuineness of the signature of the deponent or declarant and shall administer the oath or declaration in the manner required by law before he signs the jurat or declaration. R.S.O. 1970, c. 72, s. 10.

Duty of commissioner, etc., in administration of oath

11. Every commissioner, notary public, justice of the peace or other officer or person administering an oath or declaration who signs a jurat or declaration without the due administration of the oath or declaration is guilty of an offence and on conviction is liable to a fine of not less than \$25 and not more than \$500. R.S.O. 1970, c. 72, s. 11.

Offence

12. Every one who in any action or proceeding or upon any application or other proceeding out of court, or for the purpose of making or maintaining any claim, files, registers or uses or in any other manner makes use of any oath, affidavit or declaration knowing that it was not taken, sworn to or made in conformity with section 10 is guilty of an offence and on conviction is liable to a fine of not less than \$25 and not more than \$500. R.S.O. 1970, c. 72, s. 12.

Idem

Forfeiture of
commission
or appoint-
ment

13. Upon his conviction for an offence against this Act, the commission or appointment of a commissioner for taking affidavits, notary public or justice of the peace may be cancelled or revoked by the constituting authority. R.S.O. 1970, c. 72, s. 13.

Regulations

14. The Lieutenant Governor in Council may make regulations respecting the fees payable to the Crown and the fees receivable by commissioners under this Act. R.S.O. 1970, c. 72, s. 14.

CHAPTER 76

Commodity Board Members Act

1.—(1) In this Act,

Interpre-
tation

- (a) “commodity board” means a local board under the *Farm Products Marketing Act* or a marketing board under the *Milk Act*; R.S.O. 1980, cc. 158, 266
- (b) “plan” means a plan under the *Farm Products Marketing Act* or under the *Milk Act*;
- (c) “producer” means a person who is a producer under a plan;
- (d) “senior officer” means the chairman or any vice-chairman of the board of directors, the president, any vice-president, the secretary, the treasurer or the general manager of a corporation or any other person who performs functions for the corporation similar to those normally performed by a person occupying any such office;
- (e) “Tribunal” means the Farm Products Appeal Tribunal under the *Ministry of Agriculture and Food Act*. 1976, R.S.O. 1980, c. 270 c. 7, s. 1 (1); 1978, c. 100, s. 5 (1).

(2) For the purposes of this Act, a member of a commodity board shall be deemed to have a controlling interest in a corporation if he beneficially owns, directly or indirectly, or exercises control or direction over, equity shares of the corporation carrying more than 10 per cent of the voting rights attached to all equity shares of the corporation for the time being outstanding. 1976, c. 7, s. 1 (2). When member deemed to have controlling interest in corporation

2.—(1) No person shall become or continue to be a member of a commodity board while he, or a person with whom he is in partnership, or a corporation of which he is a senior officer or in which he has a controlling interest, is in contravention of the *Farm Products Marketing Act* or the *Milk Act* or any regulation or order thereunder in respect of the plan administered by the commodity board. Prohibition against being member of commodity board

Idem

(2) Where a plan prescribes qualifications for a person to be elected or appointed a member of a commodity board, no person who does not conform with such qualifications shall assume office as a member of such commodity board, and, where a plan prescribes qualifications for a member of a commodity board to continue to be a member, no member of such commodity board shall continue to be a member where he has ceased to conform with such qualifications. 1976, c. 7, s. 2.

Who may
try
alleged
contra-
vention of
subs. 2 (1)
or (2)
Applica-
tion to
Tribunal

3. The question of whether or not a member of a commodity board has contravened subsection 2 (1) or (2) may be tried and determined by the Tribunal. 1976, c. 7, s. 3; 1978, c. 100, s. 5 (2).

4.—(1) Subject to subsections (3) and (4), a producer or a commodity board may, where it comes to his or its knowledge that a member of the commodity board may have contravened subsection 2 (1) or (2), apply to the Tribunal by notice in writing for a determination of the question of whether or not the member has contravened subsection 2 (1) or (2). 1976, c. 7, s. 4 (1); 1978, c. 100, s. 5 (2).

Contents
of notice

(2) The applicant shall state in his or its notice the grounds for finding a contravention by the member of a commodity board of subsection 2(1) or (2).

Time for
bringing
application
limited

(3) No application shall be brought under subsection (1) after the expiration of the term of office of the member of the commodity board during which the contravention is alleged to have occurred.

Who may
bring
application

(4) No application by a producer shall be brought other than by a producer under the plan administered by the commodity board in respect of which the application is made. 1976, c. 7, s. 4 (2-4).

Tribunal
may
declare
seat
vacant
and
disqualify
member

5.—(1) Where the Tribunal determines, after a hearing, that a member of a commodity board has contravened subsection 2 (1) or (2), it may, subject to subsections (2) and (3) of this section, declare the seat of the member vacant and may disqualify him from being a member of the commodity board during a period thereafter of not more than seven years. 1976, c. 7, s. 5 (1).

Exception

(2) Where the Tribunal determines that a member of a commodity board has contravened subsection 2 (1) and finds that the contravention was committed through inadvertence, the member is, notwithstanding subsection 2 (1), not subject to having his seat declared vacant or to being disqualified as a member, as provided by subsection (1). 1976, c. 7, s. 5 (2); 1978, c. 100, s. 5 (2).

(3) The Tribunal may require, as a condition to the holding of a hearing under subsection (1), that the applicant pay a deposit not exceeding \$300 and the Tribunal shall refund the deposit to the applicant where the Tribunal declares the seat of the member vacant and the deposit may otherwise be forfeited to the Treasurer of Ontario.

Deposit as
condition
to holding
of hearing

(4) Where the provisions of a plan do not provide any means of electing or appointing a person to complete the term of office of a member whose seat is declared vacant under this section, the Tribunal may, by order, prescribe a method of electing or appointing a person to complete the term of office and the *Regulations Act* does not apply to such an order.

Appoint-
ment of
person to
complete
term of
office

R.S.O. 1980,
c. 446

(5) The *Statutory Powers Procedure Act* applies to any hearing held under subsection (1). 1976, c. 7, s. 5 (3-5).

Application
of
R.S.O. 1980,
c. 484

6. Where the number of members of a commodity board who cease to be members by reason of the operation of this Act is such that, at any meeting, the remaining members are not of sufficient number to constitute a quorum, then, notwithstanding any general or special Act, the remaining number of members shall be deemed to constitute a quorum, provided such number is not less than two. 1976, c. 7, s. 6.

Quorum

7. In the event of any conflict between any provision of this Act and any provision of any general or special Act, the provision of this Act prevails. 1976, c. 7, s. 7.

Conflict

CHAPTER 77

Commodity Boards and Marketing
Agencies Act

1. In this Act,

Interpre-
tation

- (a) "commodity board" means a local board under the *Farm Products Marketing Act* or a marketing board under the *Milk Act*; R.S.O. 1980.
cc. 158, 266
- (b) "marketing agency" means a marketing agency of Canada that is authorized to exercise powers of regulation in relation to the marketing of a regulated product in interprovincial or export trade and that has been granted authority to regulate the marketing of the regulated product locally within Ontario;
- (c) "regulated product" means a natural product of agriculture that is regulated by a commodity board or a marketing agency. 1978, c. 30, s. 1.

2.—(1) The Lieutenant Governor in Council may, by regulation, grant to any commodity board or marketing agency in relation to the marketing of any regulated product locally within Ontario, authority to fix, impose and collect levies or charges from persons engaged in the production or marketing of the whole or any part of the regulated product and for such purpose to classify such persons into groups and fix the levies or charges payable by the members of the different groups in different amounts, and to use such levies or charges for the purposes of such commodity board or marketing agency, including the creation of reserves, the payment of expenses and losses resulting from the sale or disposal of any such regulated product, and the equalization or adjustment among producers of any regulated product of moneys realized from the sale thereof during such period or periods of time as the commodity board or marketing agency may determine. Lieutenant
Governor
in Council
may grant
authority
re levies
or charges

(2) The Lieutenant Governor in Council may in a regulation made under subsection (1) require any person who receives a regulated product to deduct from the moneys payable for the regulated product any levies or charges payable to a commodity board or marketing agency by the Regulation
may require
deduction
of levies
or charges

person from whom he receives the regulated product and to forward such levies or charges to the commodity board or marketing agency or its agent designated for that purpose.

Authority of commodity board or marketing agency to make regulations, etc.

(3) Where the Lieutenant Governor in Council authorizes a commodity board or marketing agency to exercise any of the powers mentioned in subsection (1), the commodity board or marketing agency, in the exercise of such powers, may make regulations or orders or issue directions.

Authority may be revoked

(4) The Lieutenant Governor in Council may, by regulation, revoke any authority granted under subsection (1). 1978, c. 30, s. 2.

Regulations

3. The Lieutenant Governor in Council may make regulations prescribing the terms and conditions governing the granting and revocation of authority under section 2 and generally may make regulations in respect of any matter necessary or advisable to carry out effectively the intent and purpose of this Act. 1978, c. 30, s. 3.

Offence

4.—(1) Every person who fails to comply with or contravenes any of the provisions of any regulation or order made or any direction issued under this Act is guilty of an offence and on conviction is liable for a first offence to a fine of not more than \$500 and for a subsequent offence to a fine of not more than \$5,000.

Onus

(2) In any prosecution or action under this Act, the act or omission complained of, in respect of which the prosecution or action was instituted shall, unless the accused or defendant proves the contrary, be deemed to relate to the marketing of a regulated product locally within Ontario. 1978, c. 30, s. 4.

Levies or charges deemed validly imposed or collected or may be collected
R.S.C. 1970, c. A-7
1970-71-72, c. 65 (Can.)

5. All levies or charges heretofore imposed or collected by,

- (a) a commodity board, the Canadian Turkey Marketing Agency or the Canadian Egg Marketing Agency pursuant to or purporting to be pursuant to the *Agricultural Products Marketing Act* (Canada) or the *Farm Products Marketing Agencies Act* (Canada); or
- (b) after the 19th day of January, 1978, a commodity board, the Canadian Turkey Marketing Agency or the Canadian Egg Marketing Agency,

in respect of regulated products marketed locally within Ontario shall be deemed to have been imposed or collected pursuant to a regulation made under this Act and such

levies or charges are hereby declared to have been validly imposed or collected and, where they were imposed but not collected, may be collected as if they had been imposed under this Act. 1978, c. 30, s. 5.

CHAPTER 78

Commodity Futures Act

1. In this Act,

Interpre-
tation

1. “adviser” means a person or company engaging in or holding himself or itself out as engaging in the business of advising others as to trading in contracts;
2. “clearing house” means an association or organization, whether incorporated or unincorporated, or part of a commodity futures exchange through which trades in contracts entered into on such exchange are cleared;
3. “Commission” means the Ontario Securities Commission;
4. “commodity” means, whether in the original or a processed state, any agricultural product, forest product, product of the sea, mineral, metal, hydrocarbon fuel, currency or precious stone or other gem, and any goods, article, service, right or interest, or class thereof, designated as a commodity under the regulations;
5. “commodity futures contract” means a contract to make or take delivery of a specified quantity and quality, grade or size of a commodity during a designated future month at a price agreed upon when the contract is entered into on a commodity futures exchange pursuant to standardized terms and conditions set forth in such exchange’s by-laws, rules or regulations;
6. “commodity futures exchange” means an association or organization, whether incorporated or unincorporated, operated for the purpose of providing the physical facilities necessary for the trading of contracts by open auction;
7. “commodity futures option” means a right, acquired for a consideration, to assume a long or short position in relation to a commodity futures contract at a specified price and within a specified period of time and any other option of which the subject is a commodity futures contract;

8. "company" means any corporation, incorporated association, incorporated syndicate or other incorporated organization;
9. "contract" means any commodity futures contract and any commodity futures option;
10. "dealer" means a person or company that trades in contracts in the capacity of principal or agent;
11. "decision" means a direction, decision, order, ruling or other requirement made under a power or right conferred by this Act or the regulations;
12. "declaration date", where used in relation to a commodity futures option, means that date on which the option expires;
13. "Director" means the Director or any Deputy Director of the Commission;
14. "floor trader" means an individual who is employed by a dealer for the purpose of entering into contracts on the floor of a commodity futures exchange on behalf of such dealer;
15. "hedger" means a person or company who carries on agricultural, mining, forestry, processing, manufacturing or other commercial activities and, as a necessary part of these activities, becomes exposed from time to time to a risk attendant upon fluctuations in the price of a commodity and offsets that risk through trading in contracts for the commodity or related commodities whether or not any particular trade is effected for that purpose, but a person or company is a hedger only as to trades in contracts for such commodity or related commodities;
16. "liquidating trade" means effecting settlement of a commodity futures contract,
 - (a) in relation to a long position, by assuming an offsetting short position in relation to a contract entered into on the same commodity futures exchange for a like quantity and quality, grade or size of the same commodity deliverable during the same designated future month;

- (b) in relation to a short position, by assuming an offsetting long position in relation to a contract entered into on the same commodity futures exchange for a like quantity and quality, grade or size of the same commodity deliverable during the same designated future month;
17. "long position", where used in relation to a commodity futures contract, means to be under an obligation to take delivery;
18. "Minister" means the Minister of Consumer and Commercial Relations or other member of the Executive Council to whom the administration of this Act may be assigned;
19. "misrepresentation" means an untrue statement of material fact or an omission to state a material fact;
20. "officer" means the chairman or any vice-chairman of the board of directors, the president, vice-president, secretary, assistant secretary, treasurer, assistant treasurer or general manager of a company, or any other person designated an officer of a company by by-law or similar authority;
21. "open commodity futures contract" means an outstanding obligation under a commodity futures contract for which settlement has not been effected by the tender and receipt of the commodity or of an instrument evidencing title or the right to such commodity or by a liquidating trade;
22. "open interest", where used in relation to commodity futures contracts, means the total outstanding long positions or the total outstanding short positions, for each delivery month and in aggregate, in commodity futures contracts relating to a particular commodity entered into on a commodity futures exchange;
23. "person" means an individual, partnership, unincorporated association, unincorporated syndicate, unincorporated organization, trust, trustee, executor, administrator, or other legal representative;

24. "premium", where used in relation to a commodity futures option, means the consideration for which the option is acquired;
25. "register" means register under this Act, and "registered" has a corresponding meaning;
26. "registrant" means a person or company registered or required to be registered under this Act;
27. "regulations" means the regulations made under this Act;
28. "salesman" means an individual who is employed by a dealer for the purpose of making trades in contracts on behalf of such dealer;
29. "Secretary" means the Secretary of the Commission or any individual designated by the Commission to act in the capacity of Secretary;
30. "security" means a security within the meaning of the *Securities Act*;
31. "settlement price", where used in relation to a commodity futures contract, means the price which is used by a commodity futures exchange or its clearing house to determine, daily, the net gains or losses in the value of open commodity futures contracts;
32. "short position", where used in relation to a commodity futures contract, means to be under an obligation to make delivery;
33. "striking price", where used in relation to a commodity futures option, means the price at which the purchaser of the option has the right to assume a long or short position in relation to the commodity futures contract that is the subject of the option;
34. "trade" or "trading" includes,
 - (a) entering into contracts, whether as principal or agent;
 - (b) acting as a floor trader;

- (c) any receipt by a registrant of an order to effect a transaction in a contract ;
- (d) any assignment or other disposition of rights under a contract except a disposition arising from the death of an individual enjoying rights under a contract ; and
- (e) any act, advertisement, solicitation, conduct or negotiation directly or indirectly in furtherance of the foregoing. 1978, c. 48, s. 1.

PART I

COMMODITY FUTURES ADVISORY BOARD

2.—(1) There shall be a board of not more than five ^{Commodity Futures Advisory Board} members to be known as The Commodity Futures Advisory Board, the members of which shall be appointed by the Lieutenant Governor in Council and the Lieutenant Governor in Council may designate one of the members to be chairman.

(2) The Commodity Futures Advisory Board shall meet at ^{Meetings} the call of the Commission.

(3) The Commodity Futures Advisory Board shall, when ^{Duties} requested by the Commission, consult with and advise the Commission concerning,

- (a) developments in the nature of contracts and manner of trading ; and
- (b) the influence of trading in contracts on the economy of Ontario.

(4) The members of The Commodity Futures Advisory ^{Remuneration} Board shall serve without remuneration, but the Lieutenant Governor in Council may fix a *per diem* allowance to be payable to each member, and every member is entitled to his reasonable and necessary expenses, as certified by the chairman, for attending at meetings and transacting the business of the Board. 1978, c. 48, s. 2.

PART II

APPOINTMENT OF EXPERTS

Appointment
of experts

3.—(1) The Commission may appoint one or more experts to assist the Commission in such manner as it may consider expedient.

Submissions
to experts

(2) The Commission may submit any agreement, contract, financial statement, report or other document to one or more experts appointed under subsection (1) for examination, and the Commission has the like power to summon and enforce the attendance of witnesses before the expert and to compel them to produce documents, records and things as is vested in the Commission, and subsections 7 (3) and (4) apply with necessary modifications.

Payment of
experts

(3) An expert appointed under subsection (1) shall be paid such amounts for services and expenses as the Lieutenant Governor in Council may determine. 1978, c. 48, s. 3.

PART III

ADMINISTRATIVE PROCEEDINGS, REVIEWS AND APPEALS

Notification
of decision

4.—(1) The Director shall forthwith notify the Commission of every decision refusing registration under section 23 or refusing to accept the form of a contract under section 36 and the Commission may, within thirty days of the decision, notify the Director and any person or company directly affected of its intention to convene a hearing to review the decision.

Review of
Director's
decisions

(2) Any person or company directly affected by a decision of the Director may, by notice in writing sent by registered mail to the Commission within thirty days after the mailing of the notice of the decision, request and be entitled to a hearing and review thereof by the Commission.

Power on
review

(3) Upon a hearing and review, the Commission may by order confirm the decision under review or make such other decision as the Commission considers proper.

Stay

(4) Notwithstanding that a person or company requests a hearing and review under subsection (2), the decision under review takes effect immediately, but the Commission may grant a stay until disposition of the hearing and review. 1978, c. 48, s. 4.

5.—(1) Any person or company directly affected by a decision ^{Appeal} of the Commission may appeal to the Divisional Court.

(2) Notwithstanding that an appeal is taken under this ^{Stay} section, the decision appealed from takes effect immediately, but the Commission or the Divisional Court may grant a stay until disposition of the appeal.

(3) The Secretary shall certify to the Registrar of the ^{Certification of documents} Supreme Court,

- (a) the decision that has been reviewed by the Commission;
- (b) the decision of the Commission, together with any statement of reasons therefor;
- (c) the record of the proceedings before the Commission; and
- (d) all written submissions to the Commission or other material that is relevant to the appeal.

(4) The Minister is entitled to be heard by counsel or ^{Minister entitled to be heard} otherwise upon the argument of an appeal under this section.

(5) Where an appeal is taken under this section, the ^{Powers of court on appeal} court may by its order direct the Commission to make such decision or to do such other act as the Commission is authorized and empowered to do under this Act or the regulations and as the court considers proper, having regard to the material and submissions before it and to this Act and the regulations, and the Commission shall make such decision or do such act accordingly.

(6) Notwithstanding an order of the court on an appeal, ^{Further decisions} the Commission may make any further decision upon new material or where there is a significant change in the circumstances, and every such decision is subject to this section. 1978, c. 48, s. 5.

6.—(1) The Secretary may,

Secretary

- (a) accept service of all notices or other documents on behalf of the Commission;
- (b) when authorized by the Commission, sign any decision made by the Commission as a result of a hearing;

- (c) certify under his hand any decision made by the Commission or any document, record or thing used in connection with any hearing by the Commission where certification is required for a purpose other than that stated in subsection 5 (3); and
- (d) exercise such other powers as are vested in him by this Act or the regulations and perform such other duties as are imposed upon him by this Act or the regulations or by the Commission.

Certification
by
Secretary

- (2) A certificate purporting to be signed by the Secretary is, without proof of the office or signature certifying, admissible in evidence, so far as is relevant, for all purposes in any action, proceeding or prosecution. 1978, c. 48, s. 6.

PART IV

INVESTIGATIONS

Investiga-
tion order

7.—(1) Where upon a statement made under oath it appears probable to the Commission that any person or company has,

- (a) contravened any of the provisions of this Act or the regulations; or

R.S.C. 1970,
c. C-34

- (b) committed an offence under the *Criminal Code* (Canada) in connection with a transaction relating to contracts,

the Commission may, by order, appoint any person to make such investigation as it considers expedient for the due administration of this Act, and in the order shall determine and prescribe the scope of the investigation.

Investiga-
tion order

- (2) The Commission may, by order, appoint any person to make such investigation as it considers expedient for the due administration of this Act or into any matter relating to trading in contracts, and in such order shall determine and prescribe the scope of the investigation.

Scope of
investiga-
tion

- (3) For the purposes of any investigation ordered under this section, the person appointed to make the investigation may investigate, inquire into and examine,

- (a) the affairs of the person or company in respect of which the investigation is being made and any books, papers, documents, correspondence, communications, negotiations, transactions, investigations, loans, borrowings and payments to, by, on behalf of or in relation to or connected with such person or company and any property, assets or things owned, acquired or alienated in whole or in part by such person or company or by any person or company acting on behalf of or as agent for such person or company; and
- (b) the assets at any time held, the liabilities, debts, undertakings and obligations at any time existing, the financial or other conditions at any time prevailing in or in relation to or in connection with any such person or company and the relationship that may at any time exist or have existed between such person or company and any other person or company by reason of investments, commissions promised, secured or paid, interests held or acquired, the loaning or borrowing of money, securities or other property, the transfer, negotiation or holding of securities, interlocking directorates, common control, undue influence or control or any other relationship.

(4) The person making an investigation under this section has the same power to summon and enforce the attendance of witnesses and compel them to give evidence on oath or otherwise, and to produce documents, records and things, as is vested in the Supreme Court for the trial of civil actions, and the failure or refusal of a person to attend, to answer questions or to produce such documents, records and things as are in his custody or possession makes the person liable to be committed for contempt by a judge of the Supreme Court as if in breach of an order or judgment of the Supreme Court provided that no provision of the *Evidence Act* exempts any bank or any officer or employee thereof from the operation of this section.

Powers to
summon wit-
nesses and
require
production

R.S.O. 1980,
c. 145

(5) A person giving evidence at an investigation under this section may be represented by counsel.

Counsel

(6) Where an investigation is ordered under this section, the person appointed to make the investigation may seize and take possession of any documents, records, securities, contracts or other property of the person or company whose affairs are being investigated.

Seizure
of property

Inspection
of seized
documents

(7) Where any documents, records, securities, contracts or other property are seized under subsection (6), such documents, records, securities, contracts or other property shall be made available for inspection and copying by the person or company from whom seized at a mutually convenient time and place if a request for an opportunity to inspect or copy is made by such person or company to the person appointed to make the investigation.

Accountants
and experts

(8) Where an investigation is ordered under this section, the Commission may appoint an accountant or other expert to examine documents, records, properties and matters of the person or company whose affairs are being investigated.

Report of
investiga-
tion

(9) Every person appointed under subsection (1), (2) or (8) shall provide the Commission with a full and complete report of the investigation including any transcript of evidence and material in his possession relating to the investigation. 1978, c. 48, s. 7.

Report to
Minister

8. Where, upon the report of an investigation made under section 7, it appears to the Commission that any person or company may have,

(a) contravened any of the provisions of this Act or the regulations; or

R.S.C. 1970.
c. C-34

(b) committed an offence under the *Criminal Code* (Canada) in connection with a transaction relating to contracts,

the Commission shall send a full and complete report of the investigation, including the report made to it, any transcript of evidence and any material in the possession of the Commission relating thereto, to the Minister. 1978, c. 48, s. 8.

Investiga-
tion by order
of Minister

9. Notwithstanding section 7, the Minister may, by order, appoint any person to make such investigation as the Minister considers expedient for the due administration of this Act or into any matter relating to trading in contracts, in which case the person so appointed, for the purposes of the investigation, has the same authority, powers, rights and privileges as a person appointed under section 7. 1978, c. 48, s. 9.

Evidence not
to be dis-
closed

10. No person, without the consent of the Commission, shall disclose, except to his counsel, any information or evidence obtained or the name of any witness examined or sought to be examined under section 7 or 9. 1978, c. 48, s. 10.

11. Where an investigation has been made under section 7, the Commission may, and, where an investigation has been made under section 9, the person making the investigation shall report the result thereof, including the evidence, findings, comments and recommendations, to the Minister, and the Minister may cause the report to be published in whole or in part in such manner as he considers proper. 1978, c. 48, s. 11.

Report to
Minister

12.—(1) The Commission may,

Order to
freeze
property

- (a) where it is about to order an investigation in respect of a person or company under section 7 or during or after an investigation in respect of a person or company under section 7 or 9;
- (b) where it is about to make or has made a decision suspending or cancelling the registration of any person or company or affecting the right of any person or company to trade in contracts; or
- (c) where criminal proceedings or proceedings in respect of a contravention of this Act or the regulations are about to be or have been instituted against any person or company, that in the opinion of the Commission are connected with or arise out of any contract or any trade therein, or out of any business conducted by such person or company,

in writing or by telegram direct any person or company having on deposit or under control or for safekeeping any funds or securities of the person or company referred to in clause (a), (b) or (c) to hold such funds or securities or direct the person or company referred to in clause (a), (b) or (c) to refrain from withdrawing any such funds or securities from any other person or company having any of them on deposit, under control or for safekeeping or to hold all funds or securities of clients or others in his possession or control in trust for any interim receiver, custodian, trustee, receiver or liquidator appointed under the *Bankruptcy Act* (Canada), the *Judicature Act*, the *Corporations Act*, the *Business Corporations Act*, the *Winding-up Act* (Canada) or section 13 of this Act, or until the Commission in writing revokes the direction or consents to release any particular fund or security from the direction, provided that no such direction applies to funds or securities in a commodity futures exchange clearing house, stock exchange clearing house or to securities in process of transfer by a transfer agent unless the direction expressly so states, and in the case of a bank, loan or trust company, the direction applies only to the offices, branches or agencies thereof named in the direction.

R.S.C. 1970,
cc. B-4, W-11,
R.S.O. 1980,
cc. 223, 95, 54

Applica-
tion for
directions

(2) Any person or company named in a direction issued under subsection (1) may, if in doubt as to the application of the direction to particular funds or securities, apply to the Commission for an order of clarification.

Revocation
or amend-
ment of
direction

(3) Upon the application of a person or company directly affected by a direction issued under subsection (1), the Commission may make an order on such terms and conditions as it may impose revoking the direction or consenting to the release of any fund or security. 1978, c. 48, s. 12.

Appointment
of receiver,
etc.

13.—(1) The Commission may,

- (a) where it is about to order an investigation in respect of a person or company under section 7 or during or after an investigation in respect of a person or company under section 7 or 9;
- (b) where it is about to make or has made a decision suspending or cancelling the registration of any person or company or affecting the right of any person or company to trade in contracts;
- (c) where criminal proceedings or proceedings in respect of a contravention of this Act or the regulations are about to be or have been instituted against any person or company that in the opinion of the Commission are connected with or arise out of any contract or any trade therein, or out of any business conducted by such person or company; or
- (d) where a person or company fails or neglects to comply with the minimum net asset requirements, investment restrictions, ownership restrictions, or capital requirements prescribed by the regulations for such person or company,

apply to a judge of the Supreme Court for the appointment of a receiver, receiver and manager, trustee or liquidator of the property of such person or company.

Appointment

(2) Upon an application under subsection (1), the judge may, where he is satisfied that the appointment of a receiver, receiver and manager, trustee or liquidator of all or any part of the property of any person or company is in the best interests of the creditors of any such person or company or of persons or companies any of whose property is in the possession or under the control of such person or company, appoint a receiver, receiver and manager, trustee or liquidator of the property of such person or company.

(3) Upon an *ex parte* application made by the Commission under this section, the judge may make an order under subsection (2) appointing a receiver, receiver and manager, trustee or liquidator for a period not exceeding fifteen days. *Ex parte application*

(4) A receiver, receiver and manager, trustee or liquidator of the property of any person or company appointed under this section shall be the receiver, receiver and manager, trustee or liquidator of all or any part of the property belonging to the person or company or held by the person or company on behalf of or in trust for any other person or company, and the receiver, receiver and manager, trustee or liquidator shall have authority, if so directed by the judge, to wind up or manage the business and affairs of the person or company and all powers necessary or incidental thereto. *Powers of receiver, etc.*

(5) An order made under this section may be enforced in the same manner as any order or judgment of the Supreme Court and may be varied or discharged upon an application made by notice. *Enforcement of order*

(6) Upon an application made under this section, the rules of practice of the Supreme Court apply. 1978, c. 48, s. 13. *Rules of practice*

PART V

AUDITS

14.—(1) Notwithstanding anything in sections 15, 16, 17 and 18, the Commission may in writing appoint any person to examine at any time the financial affairs of a registrant or a clearing house of a commodity futures exchange in Ontario and prepare such financial or other statements and reports that may be required by the Commission. *Audits by Commission*

(2) The person making an examination under this section may inquire into and examine all books of account, securities, cash, documents, bank accounts, vouchers, correspondence and records of every description of the registrant or clearing house whose financial affairs are being examined, and no registrant or clearing house shall withhold, destroy, conceal or refuse to give any information or thing reasonably required for the purpose of the examination. *Access to records*

(3) The Commission may charge such fees as may be prescribed by the regulations for any examination made under this section. 1978, c. 48, s. 14. *Fees*

PART VI

SELF REGULATION—GENERALLY

Self-regulatory
bodies

15.—(1) The Commission may recognize in writing an association or organization representing registrants, whether incorporated or unincorporated, as a self-regulatory body where it is satisfied that to do so would be in the public interest and that the association or organization has satisfied or can satisfy all conditions with respect to self-regulatory bodies prescribed under the regulations.

Idem

(2) A self-regulatory body recognized under subsection (1) shall, subject to this Act and the regulations and any decision made by the Commission, regulate the standards and business conduct of its members.

Commission's
powers

(3) The Commission may, where it appears to it to be in the public interest, make any decision,

(a) with respect to any by-law, rule or regulation or proposed by-law, rule or regulation of a self-regulatory body recognized under subsection (1);

(b) with respect to any direction, decision, order or ruling made under any by-law, rule or regulation of a self-regulatory body recognized under subsection (1); or

(c) with respect to any practice of a self-regulatory body recognized under subsection (1).

Review of
decisions
of self-
regulatory
body

(4) Any person or company directly affected by any direction, decision, order or ruling made under any by-law, rule or regulation of a self-regulatory body recognized under subsection (1) may apply to the Commission for a hearing and review thereof and section 4 applies to the hearing and review in the same manner as to the hearing and review of a decision of the Director. 1978, c. 48, s. 15.

Panel of
auditors

16. Every commodity futures exchange in Ontario granted registration by the Commission under section 19 and every self-regulatory body recognized by the Commission under section 15 shall,

(a) select a panel of auditors, each of whom shall have practised as such in Canada for not fewer than five years and shall be known as a panel auditor or members' auditor; and

- (b) employ an exchange auditor, association or organization auditor, as the case may be, whose appointment is subject to the approval of the Commission, and the appointee shall be an auditor who has practised as such in Canada for not fewer than ten years. 1978, c. 48, s. 16.

17.—(1) Every commodity futures exchange in Ontario granted registration by the Commission and every self-regulatory body recognized by the Commission shall cause each member of such class or classes of their members as the Commission may designate in writing to appoint an auditor from the panel of auditors selected under clause 16 (a) and such auditor shall make the examination of the financial affairs of such member as called for by the by-laws, rules or regulations applicable to members of such class or classes and shall report thereon to the exchange auditor, association or organization auditor, as the case may be.

Audits by
commodity
futures
exchange
and self-
regulatory
bodies

(2) The by-laws, rules and regulations of every commodity futures exchange in Ontario granted registration by the Commission and the by-laws, rules and regulations of every self-regulatory body recognized by the Commission in respect of the practice and procedure of the examinations under subsection (1) are subject to the approval of the Commission and the actual conduct of the examinations shall be satisfactory to the Commission. 1978, c. 48, s. 17.

Audit
by-laws
subject to
approval

18. Every registrant whose financial affairs are not subject to examination under section 17 shall keep such books and records as are necessary for the proper recording of his business transactions and financial affairs and shall deliver to the Commission annually and at such other time or times as the Commission may require a financial statement satisfactory to the Commission as to his financial position, certified by such registrant or an officer or partner of such registrant and reported upon by the auditor of such registrant, and shall deliver to the Commission such other information as the Commission may require in such form as it may prescribe. 1978, c. 48, s. 18.

Filing of
financial
statements
of registrants

PART VII

COMMODITY FUTURES EXCHANGES IN ONTARIO

19.—(1) No person or company shall carry on business as a commodity futures exchange in Ontario unless such commodity futures exchange is registered as a commodity futures exchange.

Commodity
futures
exchanges in
Ontario

Registration

(2) Upon application by or on behalf of a person or company wishing to carry on business in Ontario as a commodity futures exchange, the Commission shall grant registration to that person or company for the purposes of subsection (1) where it is satisfied that to do so would not be prejudicial to the public interest and in making its decision shall take into account whether,

- (a) the clearing and other arrangements made and the financial condition of the commodity futures exchange, its clearing house and its members are such as to provide reasonable assurance that all obligations arising out of contracts entered into on such commodity futures exchange will be met;
- (b) the rules and regulations applicable to exchange members and clearing house members are in the public interest and are actively enforced;
- (c) floor trading practices are fair and properly supervised;
- (d) adequate measures have been taken to prevent manipulation and excessive speculation;
- (e) adequate provision has been made to record and publish details of trading including volume and open interest; and
- (f) the commodity futures exchange has satisfied or can satisfy all conditions prescribed under the regulations for the conduct of the business of a commodity futures exchange.

Hearing

(3) The Commission shall not refuse to grant registration to a commodity futures exchange for the purposes of subsection (1) without giving the applicant an opportunity to be heard. 1978, c. 48, s. 19.

Filing of
by-laws, etc.

20.—(1) Every commodity futures exchange in Ontario and its clearing house shall file with the Commission all by-laws, rules, regulations and policies as soon as practicable and in any event within five days of the date on which the by-law, rule, regulation or policy is approved by the board of directors of the commodity futures exchange or its clearing house and prior to approval by the membership of the commodity futures exchange or clearing house.

Commission's
powers

(2) The Commission may, where it appears to it to be in the public interest, make any decision,

- (a) with respect to the manner in which any commodity futures exchange in Ontario or its clearing house carries on business;
- (b) with respect to any by-law, rule or regulation of any such commodity futures exchange or its clearing house; or
- (c) with respect to trading on or through the facilities of any such commodity futures exchange or with respect to any contract traded on any such commodity futures exchange including the setting of levels of margin, daily price limits, daily trading limits and position limits.

(3) Any person or company directly affected by any direction, order or decision made under any by-law, rule or regulation of a commodity futures exchange in Ontario or its clearing house may apply to the Commission for a hearing and review thereof and section 4 applies to the hearing and review in the same manner as to the hearing and review of a decision of the Director. 1978, c. 48, s. 20.

Review of
decision of
commodity
futures
exchange

21. Every commodity futures exchange and its clearing house in Ontario shall keep such records as are necessary for the proper recording of each transaction on such exchange and shall,

Records and
reports

- (a) supply to any customer of any member of such commodity futures exchange, upon production of a written confirmation of any transaction with such member, particulars of the time at which the transaction took place and verification or otherwise of the matters set forth in the confirmation; and
- (b) deliver to the Commission at such time or times as the Commission may require reports as to transactions on such exchange in such form as the Commission may prescribe. 1978, c. 48, s. 21.

PART VIII

REGISTRATION FOR TRADING, ACTING AS ADVISER

22.—(1) No person or company shall,

Registration
for trading

- (a) trade in a contract unless such person or company is registered as a dealer or is registered as a sales-

man or floor trader or as a partner or as an officer of a registered dealer and is acting on behalf of such dealer;

- (b) act as an adviser unless such person or company is registered as an adviser, or is registered as a partner or as an officer of a registered adviser and is acting on behalf of such adviser,

and such registration has been made in accordance with this Act and the regulations and such person or company has received written notice of such registration from the Director and, where such registration is subject to terms and conditions, the person or company complies with such terms and conditions.

Termination
re salesman
and floor
trader

(2) The termination of the employment of a salesman or floor trader with a registered dealer shall operate as a suspension of the registration of the salesman or floor trader until notice in writing has been received by the Director from another registered dealer of the employment of the salesman or floor trader by such other registered dealer and the reinstatement of the registration has been approved by the Director.

Non-trading
employee

(3) The Director may designate as non-trading any employee or class of employees of a registered dealer that does not usually trade in contracts, but the designation may be cancelled as to any employee or class of employees where the Director is satisfied that any such employee or any member of such class of employees should be required to apply for registration as a salesman. 1978, c. 48, s. 22.

Granting of
registration

23.—(1) The Director shall grant registration, renewal of registration, reinstatement of registration or amendment to registration to an applicant except where,

- (a) having regard to the applicant's financial position, he cannot reasonably be expected to be financially responsible in the conduct of his business;
- (b) the past conduct of the applicant, or the officers, directors or partners of the applicant, affords reasonable grounds for belief that his business will not be carried on in accordance with law and with integrity and honesty; or
- (c) the applicant is or will be carrying on activities that are in contravention of this Act or the regulations.

(2) The Director may in his discretion restrict a registration by imposing terms and conditions thereon and, without limiting the generality of the foregoing, may restrict the duration of a registration and may restrict the registration to trades in a certain class of contracts. ^{Terms and conditions}

(3) The Director shall not refuse to grant, renew, reinstate or amend registration or impose terms and conditions thereon without giving the applicant an opportunity to be heard. 1978, c. 48, s. 23. ^{Refusal}

24.—(1) The Commission, after giving a registrant an opportunity to be heard, may suspend, cancel, restrict or impose terms and conditions upon the registration or reprimand the registrant where in its opinion such action is in the public interest. ^{Suspension, cancellation, etc.}

(2) Where the delay necessary for a hearing under subsection (1) would, in the opinion of the Commission, be prejudicial to the public interest, the Commission may suspend the registration without giving the registrant an opportunity to be heard, in which case it shall forthwith notify the registrant of the suspension and of a hearing and review to be held before the Commission within fifteen days of the date of the suspension, which hearing and review shall be deemed to be a hearing and review under section 4. ^{Interim suspension}

(3) Notwithstanding subsection (1), the Commission may, upon an application by a registrant, accept, subject to such terms and conditions as it may impose, the voluntary surrender of the registration of the registrant where it is satisfied the financial obligations of the registrant to its clients have been discharged and the surrender of the registration would not be prejudicial to the public interest. 1978, c. 48, s. 24. ^{Surrender}

25. A further application for registration may be made upon new or other material or where it is clear that material circumstances have changed. 1978, c. 48, s. 25. ^{Subsequent applications}

26. An application for registration shall be made in writing upon a form prescribed by the regulations and provided by the Commission, and shall be accompanied by such fee as may be prescribed by the regulations. 1978, c. 48, s. 26. ^{Application}

27. Every applicant shall state in the application an address for service in Ontario and, except as otherwise provided in this Act, all notices under this Act or the regulations are sufficiently served for all purposes if delivered or sent by prepaid mail to the latest address for service so stated. 1978, c. 48, s. 27. ^{Address for service}

Further
information

28. The Director may require any further information or material to be submitted by an applicant or a registrant within a specified time and may require verification by affidavit or otherwise of any information or material then or previously submitted or may require the applicant or the registrant or any partner, officer, director, governor or trustee of, or any person performing a like function for, or any employee of, the applicant or of the registrant to submit to examination under oath by a person designated by the Director. 1978, c. 48, s. 28.

Residence

29.—(1) The Director may refuse registration to an individual if he has not been a resident of Canada for at least one year immediately prior to the date of the application for registration or if he is not a resident of Ontario at the date of such application unless at the time of such application such individual is registered in a capacity corresponding to that of a dealer, adviser, partner, officer, salesman or floor trader under the laws of the jurisdiction in which he last resided and has been so registered for a period of not less than one year immediately preceding the date of the application and is, in the opinion of the Director, otherwise suitable for registration.

Idem

(2) The Director may refuse registration to a person or company if any director or officer of such person or company has not been a resident of Canada for at least one year immediately prior to the date of application for registration or is not a resident of Ontario at the date of such application unless at the time of such application he is registered in a capacity corresponding to that of dealer, adviser, partner, officer or salesman or floor trader under the laws of the jurisdiction in which he last resided and has been so registered for a period of not less than one year immediately preceding the date of the application and is, in the opinion of the Director, otherwise suitable for registration. 1978, c. 48, s. 29.

Notice of
changes

30.—(1) Every registered dealer shall, within five business days of the event, notify the Director in the form prescribed by the regulations of,

(a) any change in address for service in Ontario or any business address;

(b) any change in,

(i) the directors or officers of the registered dealer and in the case of resignation, dismissal, severance or termination of employment or office, the reason therefor, and

- (ii) the holders of the voting securities of the registered dealer;
- (c) the commencement and termination of employment of every registered salesman and floor trader and in the case of termination of employment, the reason therefor;
- (d) the opening or closing of any branch office in Ontario and, in the case of the opening of any branch office in Ontario, the name and address of the person in charge thereof; and
- (e) any change in the name or address of the person in charge of any branch office in Ontario.

(2) Every registered adviser, shall, within five business ^{Idem} days of the event, notify the Director in the form prescribed by the regulations of,

- (a) any change in address for service in Ontario or any business address; and
- (b) any change in,
 - (i) the directors or officers of the registered adviser and in the case of resignation, dismissal, severance or termination of employment or office, the reason therefor, and
 - (ii) the holders of the voting securities of the registered adviser.

(3) Every registered salesman and floor trader shall, within ^{Idem} five business days of the event, notify the Director in the form prescribed by the regulations of,

- (a) any change in his address for service in Ontario or in his business address; and
- (b) every commencement and termination of his employment by a registered dealer.

(4) The Director may, upon an application of a registrant, ^{Exemptions} exempt, subject to such terms and conditions as he may impose, the registrant from the requirement of subsections (1) and (2) that the Director be notified of any change in the holders of voting securities of the registrant where in his opinion it would not be prejudicial to the public interest to do so. 1978, c. 48, s. 30.

PART IX

EXEMPTIONS FROM REGISTRATION REQUIREMENTS

Exemptions
of advisers**31.** Registration as an adviser is not required to be obtained by,1980-81,
c. 40 (Can.)1974-75,
c. 14 (Can.)R.S.O. 1980,
cc. 249, 218

- (a) a bank to which the *Bank Act* (Canada) applies, or the Federal Business Development Bank incorporated under the *Federal Business Development Bank Act* (Canada), or a trust company registered under the *Loan and Trust Corporations Act*, or an insurance company licensed under the *Insurance Act*;
- (b) a lawyer, accountant, engineer, teacher or employee of the Ministry of Agriculture and Food;
- (c) a registered dealer, or any partner, officer or employee thereof;
- (d) a person or company registered as an adviser under the *Securities Act*, or any partner, officer or employee thereof;
- (e) a publisher of or any writer for any *bona fide* newspaper, news magazine or business or financial publication of general and regular paid circulation distributed only to subscribers thereto for value or to purchasers thereof, who gives advice as an adviser only through such publication and has no interest either directly or indirectly in any of the contracts upon which the advice is given and receives no commission or other consideration for giving the advice,

R.S.O. 1980,
c. 466

where the performance of the service as an adviser is solely incidental to their principal business or occupation, or

- (f) such other persons or companies as are designated by the regulations. 1978, c. 48, s. 31.

Exemption
of trades**32.—**(1) Subject to the regulations, registration is not required in respect of,

- (a) a trade in a contract by a hedger through a dealer;
- (b) a trade in a contract by a person or company acting solely through an agent who is a registered dealer;

- (c) a trade in a contract to be executed on an exchange situate outside Ontario resulting from an order placed with a dealer who does not carry on business in Ontario, not involving any solicitation by or on behalf of the dealer; or
- (d) a trade in a contract in respect of which a preliminary prospectus and a prospectus have been filed and receipts therefor obtained from the Director under the *Securities Act*. 1978, c. 48, s. 32.

R.S.O. 1980,
c. 466

PART X

RECOGNITION OF COMMODITY FUTURES EXCHANGES AND ACCEPTANCE OF FORM OF CONTRACT

33. No person or company, except a hedger, shall trade in contracts on his own account or on behalf of any other person or company except,

Registration
or
recognition of
commodity
futures
exchange and
acceptance
of form of
contracts
required

- (a) contracts traded on a commodity futures exchange, registered by the Commission or recognized by the Commission under this Part, if the form of the contracts has been approved by the Director under this Part;
- (b) contracts for which a preliminary prospectus and a prospectus have been filed and receipts therefor obtained from the Director under the *Securities Act*; and
- (c) a contract traded on a commodity futures exchange situate outside Ontario as the result of an order placed with a dealer who does not carry on business in Ontario, not involving any solicitation by or on behalf of the dealer. 1978, c. 48, s. 33.

34.—(1) Upon application by or on behalf of a commodity futures exchange that is situate outside Ontario, the Commission shall recognize such commodity futures exchange where it is satisfied that to do so would not be prejudicial to the public interest and in making its decision shall take into account whether,

Recognition
of commodity
futures
exchange by
Commission

- (a) the clearing and other arrangements made and the financial condition of the commodity futures exchange, its clearing house and its members are such as to provide reasonable assurance that all obligations arising out of contracts entered into on such commodity futures exchange will be met;

- (b) the rules and regulations applicable to exchange members and clearing house members are in the public interest and are actively enforced;
- (c) floor trading practices are fair and properly supervised;
- (d) adequate measures have been taken to prevent manipulation and excessive speculation;
- (e) adequate provision has been made to record and publish details of trading including volume and open interest;
- (f) the exchange and its clearing house have undertaken to comply with section 35; and
- (g) the exchange and its clearing house are subject to appropriate government controls.

Hearing

(2) The Commission shall not refuse to recognize a commodity futures exchange under this Part without giving the applicant an opportunity to be heard. 1978, c. 48, s. 34.

**Filing of
by-laws, etc.**

35. Every commodity futures exchange recognized by the Commission under section 34 and its clearing house shall file with the Commission all by-laws, rules, regulations and policies forthwith after the by-law, rule, regulation or policy is approved by the Board of Directors of the commodity futures exchange or clearing house. 1978, c. 48, s. 35.

**Acceptance
of form of
contracts by
Director**

36.—(1) Upon application by or on behalf of a commodity futures exchange registered by the Commission, or recognized by the Commission under this Part, and the filing of a copy of all terms and conditions of a contract that it is proposed be traded in Ontario, the Director shall accept the form of contract where he is satisfied that to do so would not be prejudicial to the public interest and in making his decision shall take into account whether,

- (a) more than occasional use is made or can be reasonably expected to be made of the contract for hedging transactions;
- (b) with respect to a commodity futures contract each term or condition is in conformity with normal

commercial practices of the trade in the commodity or if not in such conformity there is reasonable justification therefor;

- (c) with respect to a commodity futures contract satisfactory levels of margin, daily price limits, daily trading limits and position limits are imposed by the commodity futures exchange;
- (d) with respect to a commodity futures option the form of the commodity futures contract that is the subject of the option has been accepted under this Part; and
- (e) with respect to a commodity futures option performance on exercise of the option is reasonably assured by established rules and procedures that are actively enforced.

(2) The Director shall not refuse to accept the form of contract without giving the applicant an opportunity to be heard. 1978, c. 48, s. 36. Hearing

37.—(1) It is a condition of acceptance of the form of a contract under section 36 that the commodity futures exchange, Terms and conditions of contracts to be filed with Commission and available through agent

- (a) file with the Commission copies of all current contract terms and conditions; and
- (b) unless the Director by order modifies the requirement, make copies of all current contract terms and conditions available to registrants through an agent in Ontario designated by the commodity futures exchange.

(2) Copies of amendments or additions to contract terms and conditions shall be filed with the Commission and supplied to the agent designated by the commodity futures exchange forthwith after the amendment or addition is approved by the Board of Directors of the commodity futures exchange. Idem

(3) The Director shall not accept the form of a contract until advised by the commodity futures exchange of the name and address of the agent designated for the purposes of subsection (1). Idem

Idem

(4) The commodity futures exchange shall, within five days of the event, notify the Director of any change in the name or address of the agent designated for the purposes of subsection (1). 1978, c. 48, s. 37.

Order
exempting
from
registration
for trading,
acceptance
of form of
contract

38.—(1) The Commission may, upon the application of an interested person or company, rule that an intended trade is not subject to section 22 or 33 where it is satisfied that to do so will not be prejudicial to the public interest and may impose such terms and conditions as are considered necessary.

Ruling
final

(2) A decision of the Commission under this section is final and there is no appeal therefrom. 1978, c. 48, s. 38.

PART XI

REVOCATION OF REGISTRATION OR RECOGNITION OF COMMODITY FUTURES EXCHANGES AND ACCEPTANCE OF FORM OF CONTRACT

Order
revoking
registration
or recognition
of commodity
futures
exchange
or acceptance
of form of
contract

39.—(1) The Commission may, where in its opinion such action is in the public interest, and, subject to such terms and conditions as it may impose, by order revoke registration of a commodity futures exchange under Part VII or recognition of a commodity futures exchange under Part X or revoke acceptance of the form of a contract under Part X for such period as is specified in the order.

Temporary
order

(2) No order shall be made under subsection (1) without a hearing unless in the opinion of the Commission the length of time required for a hearing could be prejudicial to the public interest, in which event the Commission may make a temporary order, that shall not be for longer than fifteen days from the date of the making thereof, but such order may be extended for such period as the Commission considers necessary where satisfactory information is not provided to the Commission within the fifteen day period. 1978, c. 48, s. 39.

PART XII

TRADING GENERALLY

Statement
to be
furnished to
prospective
customer

40.—(1) Every registered dealer or adviser shall furnish each prospective customer prior to the opening of his account with a written statement in the form prescribed under the regulations which will,

- (a) explain the nature of, and risks inherent in trading in contracts and obligations assumed by the customer upon entering a contract;
- (b) advise the client to request and study the terms and conditions of the contract; and
- (c) furnish details concerning commissions and other charges levied by the dealer or adviser.

(2) Except where the Director by order modifies the ^{Terms and conditions} requirement, every registered dealer or adviser upon the request of a client shall furnish the client with a copy of all current terms and conditions of any contract the form of which has been accepted by the Director under Part X. 1978, c. 48, s. 40.

41.—(1) Subject to subsections (2) and (3), every registered ^{Minimum margin required} dealer who acts as an agent in connection with a trade in a commodity futures contract shall require from the customer a margin of not less than the minimum prescribed under the by-laws, rules or regulations of the commodity futures exchange upon which the contract is traded.

(2) Subject to subsection (3), where the Commission has ^{Idem} made an order with respect to levels of margin under section 20, every registered dealer who acts as an agent in connection with a trade in a commodity futures contract shall require from the customer a margin of not less than the minimum prescribed thereunder.

(3) Notwithstanding subsections (1) and (2), a registered dealer ^{Margin greater than minimum} may require from the customer a margin greater than that prescribed under subsection (1) or (2). 1978, c. 48, s. 41.

42.—(1) Every registered dealer who has acted as an ^{Confirmation of trade re commodity futures contract} agent in connection with any trade in a commodity futures contract, including a trade upon the exercise of a commodity futures option, shall promptly send by prepaid mail or deliver to the customer a written confirmation of the transaction, setting forth,

- (a) the date of the transaction;
- (b) the commodity and quantity bought or sold;
- (c) the commodity futures exchange upon which the contract was traded;
- (d) the delivery month and year;
- (e) the price at which the contract was entered into;

(f) the name of the dealer, if any, used by the registered dealer as its agent to effect the trade; and

(g) the name of the salesman, if any, in the transaction.

Coded
identification

(2) For the purposes of clauses (1) (f) and (g), a person or company or a salesman may be identified in a written confirmation by means of a code or symbols if the written confirmation also contains a statement that the name of the person, company or salesman will be furnished to the customer on request.

Filing
of code

(3) Where a person or company uses a code or symbols for identification in a confirmation under subsection (1), the person or company shall forthwith file the code or symbols and their meaning, and shall notify the Commission within five days of any change in or addition to the code or symbols or their meaning.

Disclosure
of clients

(4) Every dealer who has acted as agent in connection with any trade in a commodity futures contract shall promptly disclose to the Commission, upon request by the Commission, the name of the person or company from or to or through whom the commodity was bought or sold. 1978, c. 48, s. 42.

Statement
of purchase
and sale

43. Every registered dealer who has acted as an agent in connection with a liquidating trade in a commodity futures contract shall promptly send by prepaid mail or deliver to the customer in addition to the written confirmation required under section 42, a statement of purchase and sale setting forth,

(a) the dates of the initial transaction and liquidating trade;

(b) the commodity and quantity bought and sold;

(c) the commodity futures exchange upon which the contracts were traded;

(d) the delivery month and year;

(e) the prices on the initial transaction and on the liquidating trade;

(f) the gross profit or loss on the transactions;

(g) the commission; and

- (h) the net profit or loss on the transactions. 1978, c. 48, s. 43.

44. So long as any unexpired and unexercised commodity futures option or open commodity futures contract is outstanding in a customer's account, every registered dealer shall promptly send by prepaid mail or deliver to each customer a written monthly statement, setting forth,

- (a) the opening cash balance for the month in the customer's account;
- (b) all deposits, credits, withdrawals and debits to the customer's account;
- (c) the cash balance in the customer's account;
- (d) each unexpired and unexercised commodity futures option;
- (e) the striking price of each unexpired and unexercised commodity futures option;
- (f) each open commodity futures contract;
- (g) the price at which each open commodity futures contract was entered into. 1978, c. 48, s. 44.

45.—(1) Every registered dealer who has acted as an agent in connection with any trade in a commodity futures option shall promptly send by prepaid mail or deliver to the customer a written confirmation of the transaction setting forth,

- (a) the date of the transaction;
- (b) the type and number of commodity futures options;
- (c) the commodity futures exchange upon which the contract was traded;
- (d) the premium;
- (e) the commodity futures contract that is the subject of the commodity futures option;
- (f) the delivery month and year of the commodity futures contract that is the subject of the commodity futures option;

- (g) the declaration date;
- (h) the striking price;
- (i) the name of the dealer, if any, used by the registered dealer as its agent to effect the trade;
- (j) the commission, if any, charged in respect of the trade; and
- (k) the name of the salesman, if any, in the transaction.

Coded
identification

(2) For the purposes of clauses (1) (i) and (k), a person or company or a salesman may be identified in a written confirmation by means of a code or symbols if the written confirmation also contains a statement that the name of the person, company or salesman will be furnished to the customer on request.

Filing
of code

(3) Where a person or company uses a code or symbols for identification in a confirmation under subsection (1), the person or company shall forthwith file the code or symbols and their meaning, and shall notify the Commission within five days of any change in or addition to the code or symbols or their meaning.

Disclosure
by agent

(4) Every dealer who has acted as agent in connection with any trade in a commodity futures option shall promptly disclose to the Commission, upon request by the Commission, the name of the person or company from or through whom the commodity futures option was obtained. 1978, c. 48, s. 45.

Segregation
of funds

46.—(1) All money, securities, property and proceeds of loans received or advanced by a registered dealer to margin, guarantee or secure the trades or contracts of customers and all funds accruing to customers, shall be segregated for the benefit of the customers for whom they are held, and the registered dealer shall separately account for all such money, securities, property, proceeds and funds so received or advanced by him, and shall not knowingly commingle such money, securities, property, proceeds and funds with his own money, securities, property and funds.

Application

(2) Subsection (1) does not apply to securities or property that are subject to a lien or charge in favour of the registered dealer under a written agreement, in the form prescribed by the regulations, to secure loans referred to in subsection (1).

(3) Money, securities, property, proceeds and funds segregated under subsection (1) for the benefit of customers may be commingled. Commingling of segregated funds

(4) No registered dealer shall knowingly use money, securities, property, proceeds or funds received from, advanced to or held for any customer to margin, guarantee or secure the trades or contracts or to secure or extend the credit of any customer other than the customer for whom such money, securities, property, proceeds or funds are held. Registered dealer not to use funds

(5) Notwithstanding subsection (1), a registered dealer may have a residual financial interest in a customer's account and, from time to time, may advance from his own funds sufficient funds to prevent any and all customer's accounts from becoming undermargined. Residual financial interest

(6) Upon application by an interested person or company, the Commission may exempt any registered dealer or class of registered dealers from subsection (1) or (4), on such terms and conditions as in the opinion of the Commission provide reasonable protection for customers. Exemption on terms and conditions

(7) Notwithstanding subsection (1), where a registered dealer has a residual financial interest in a customer's account or has advanced his own funds to prevent any customer's account from becoming undermargined, the dealer may draw upon that account or any other accounts of the same customer to his own order to the extent of his residual financial interest therein or to the extent of the actual advances made. 1978, c. 48, s. 46. Exception

47. Every registered dealer shall deliver to the Commission, at such time or times as the Commission may require, reports as to transactions in contracts on its own account or on behalf of any other person or company in such form as the Commission may prescribe. 1978, c. 48, s. 47. Reports

48.—(1) The Director may, by order, suspend, cancel, restrict or impose terms and conditions upon the right of any person or company named in the order to, Order prohibiting calls to residences

(a) call at any residence; or

(b) telephone from within Ontario to any residence within or outside Ontario,

for the purpose of trading in any contract.

Hearing

(2) The Director shall not make an order under subsection (1) without giving the person or company affected an opportunity to be heard.

“residence”
defined

(3) In this section, “residence” includes any building or part of a building in which the occupant resides either permanently or temporarily and any premises appurtenant thereto.

What
constitutes
calls

(4) For the purposes of this section, a person or company shall be deemed conclusively to have called or telephoned where an officer, director or salesman of the person or company calls or telephones on his or its behalf. 1978, c. 48, s. 48.

Representa-
tions
prohibited

49.—(1) No person or company, with the intention of effecting a trade in a contract, shall make any representation that he or any other person or company,

(a) will refund all or any of the margin or premium; or

(b) assume all or any part of the obligation of another person or company under the contract.

Future
value

(2) No person or company, with the intention of effecting a trade in a contract, shall give any undertaking, written or oral, relating to the future value of such contract. 1978, c. 48, s. 49.

Use of
name of
another
registrant

50. No registrant shall use the name of another registrant on letterheads, forms, advertisements or signs, as correspondent or otherwise, unless he is a partner, officer or agent of or is authorized so to do in writing by the other registrant. 1978, c. 48, s. 50.

Registration
not to be
advertised

51. No person or company shall hold himself out as being registered by having printed in a circular, pamphlet, advertisement, letter, telegram or other stationery that he is registered. 1978, c. 48, s. 51.

Holding
out by
unregistered
person

52. No person or company who is not registered shall, either directly or indirectly, hold himself out as being registered. 1978, c. 48, s. 52.

Advertising
approval by
Commission

53. No person or company shall make any representation, written or oral, that the Commission has in any way

passed upon the financial standing, fitness or conduct of any registrant or upon the merits of any contract. 1978, c. 48, s. 53.

54.—(1) The Commission may, after giving the registered dealer an opportunity to be heard, and upon being satisfied that the registered dealer's past conduct with respect to the use of advertising and sales literature affords reasonable grounds for belief that it is necessary for the protection of the public to do so, order that a registered dealer shall deliver to the Commission at least seven days before it is used, copies of all advertising and sales literature that the registered dealer proposes to use in connection with trading in contracts.

Submission of
advertising

(2) For the purposes of this section,

Interpre-
tation

(a) "advertising" includes television and radio commercials, newspaper and magazine advertisements and all other sales material generally disseminated through the communications media; and

(b) "sales literature" includes records, videotapes and similar material, written matter and all other material, except terms and conditions of contracts and the written statement required under section 41, designed for use in a presentation to a customer or prospective customer, whether such material is given or shown to him.

(3) Where the Commission has issued an order under subsection (1), the Director may prohibit the use of the advertising and sales literature so delivered or may require that deletions or changes be made prior to its use.

Prohibition
of
advertising

(4) Where an order has been made under subsection (1), the Commission, on application of the registered dealer at any time after the date thereof, may rescind or vary the order where in its opinion it is not contrary to the public interest to do so. 1978, c. 48, s. 54.

Rescission
or variation
of order

PART XIII

ENFORCEMENT

55.—(1) Every person or company that,

Offences,
general

(a) makes a statement in any material, evidence or information submitted or given under this Act or

the regulations to the Commission, its representative, the Director or to any person appointed to make an investigation or audit under this Act that, at the time and in the light of the circumstances under which it is made, is a misrepresentation;

- (b) makes a statement in any application, release, report, return, financial statement, or other document required to be filed or furnished under this Act or the regulations that, at the time and in the light of the circumstances under which it is made, is a misrepresentation;
- (c) otherwise contravenes this Act or the regulations; or
- (d) fails to observe or to comply with any direction, decision, ruling, order or other requirement made under this Act or the regulations,

is guilty of an offence and on conviction is liable, in the case of a company or a person other than an individual, to a fine of not more than \$25,000 and, in the case of an individual, to a fine of not more than \$2,000 or to imprisonment for a term of not more than one year, or to both.

Defence

(2) No person or company is guilty of an offence under clause (1) (a) or (b) if he or it, as the case may be, did not know and in the exercise of reasonable diligence could not have known that the statement was a misrepresentation.

Directors
and
officers

(3) Where a company or a person other than an individual is guilty of an offence under subsection (1), every director or officer of such company or person who authorized, permitted, or acquiesced in such offence is also guilty of an offence and on conviction is liable to a fine of not more than \$2,000, or to imprisonment for a term of not more than one year. 1978, c. 48, s. 55.

Consent of
Minister

56. No proceedings under section 55 shall be instituted except with the consent or under the direction of the Minister. 1978, c. 48, s. 56.

Information
containing
more than
one offence

57. An information in respect of any contravention of this Act may be for one or more offences and no information, summons, warrant, conviction or other proceeding in any such prosecution is objectionable or insufficient by reason of the fact that it relates to two or more offences. 1978, c. 48, s. 57.

58.—(1) Where a provincial judge, magistrate or justice of another province or territory of Canada issues a warrant for the arrest of any person on a charge of contravening any provision of a statute of such province or territory similar to this Act, any provincial offences court of Ontario within the jurisdiction of which that person is or is suspected to be, may, upon satisfactory proof of the handwriting of the provincial judge, magistrate or a justice who issued the warrant, make an endorsement thereon in the form prescribed by the regulations, and a warrant so endorsed is sufficient authority to the person bringing the warrant and to all other persons to whom it was originally directed and to all constables within the territorial jurisdiction of the provincial offences court so endorsing the warrant to execute it within that jurisdiction and to take the person arrested thereunder either out of or anywhere in Ontario and to rearrest such person anywhere in Ontario.

Execution
of warrant
issued in
another
province

(2) Any constable of Ontario or of any other province or territory of Canada who is passing through Ontario having in his custody a person arrested in another province or territory under a warrant endorsed under subsection (1) is entitled to hold, take and rearrest the accused anywhere in Ontario under such warrant without proof of the warrant or the endorsement thereof. 1978, c. 48, s. 58.

Prisoner
in transit

59.—(1) Where it appears to the Commission that any person or company has failed to comply with or is violating any decision or any provision of this Act or the regulations, the Commission may, notwithstanding the imposition of any penalty in respect of such non-compliance or violation and in addition to any other rights it may have, apply to a judge of the High Court designated by the Chief Justice of the High Court for an order,

Order for
compliance

- (a) directing such person or company to comply with such decision or provision or restraining such person or company from violating such decision or provision; and
- (b) directing the directors and senior officers of such person or company to cause such person or company to comply with or to cease violating any such decision or provision,

and, upon the application, the judge may make such order or such other order as he thinks fit.

(2) An appeal lies to the Divisional Court from an order made under subsection (1). 1978, c. 48, s. 59.

Appeal

Limitation
period

60.—(1) No proceedings under this Part shall be commenced in a court more than one year after the facts upon which the proceedings are based first came to the knowledge of the Commission.

Idem

(2) No proceedings under this Act shall be commenced before the Commission more than two years after the facts upon which the proceedings are based first came to the knowledge of the Commission. 1978, c. 48, s. 60.

PART XIV

GENERAL PROVISIONS

Refunds

61. Where,

- (a) an application for registration or renewal of registration is abandoned;
- (b) an application for recognition of a commodity futures exchange is abandoned; or
- (c) an application for acceptance of the form of contract is abandoned,

the Director may, upon the application of the person or company who made the application recommend to the Treasurer of Ontario that a refund of the fee paid on the making of the application or such part thereof as he considers fair and reasonable be made, and the Treasurer may make such refund from the Consolidated Revenue Fund. 1978, c. 48, s. 61.

Admissibility
in evidence
of certified
statements

62. A statement as to,

- (a) the registration or non-registration of any person or company;
- (b) the filing or non-filing of any document or material required or permitted to be filed;
- (c) any other matter pertaining to such registration, non-registration, filing or non-filing, or to any such person, company, document or material; or
- (d) the date of the facts upon which any proceedings are to be based first came to the knowledge of the Commission,

purporting to be certified by the Commission or a member thereof, or by the Director is, without proof of the

office or signature of the person certifying, admissible in evidence, so far as relevant, for all purposes in any action, proceeding or prosecution. 1978, c. 48, s. 62.

63.—(1) Where this Act or the regulations require that material be filed, the filing shall be effected by depositing the material, or causing it to be deposited, with the Commission and all material so filed shall, subject to subsection (2), be made available by the Commission for public inspection during the normal business hours of the Commission. Material available for inspection

(2) Notwithstanding subsection (1), the Commission may hold material or any class of material required to be filed by this Act in confidence so long as the Commission is of the opinion that the material so held discloses intimate financial, personal or other information and that the desirability of avoiding disclosure thereof in the interests of any person or company affected outweighs the desirability of adhering to the principle that material filed with the Commission be available to the public for inspection. 1978, c. 48, s. 63. Idem

64.—(1) No action or other proceeding for damages shall be instituted against the Commission or any member thereof, or any officer, servant or agent of the Commission for any act done in good faith in the performance or intended performance of any duty or in the exercise or the intended exercise of any power under this Act or a regulation, or for any neglect or default in the performance or exercise in good faith of such duty or power. Immunity of Commission and officers

(2) No person or company has any rights or remedies and no proceedings lie or shall be brought against any person or company for any act or omission of the last-mentioned person or company done or omitted in compliance with this Act, the regulations or any direction, decision, order, ruling or other requirement made or given under this Act or the regulations. Immunity re intended compliance

(3) Subsection (1) does not, by reason of subsections 5 (2) and (3) of the *Proceedings Against the Crown Act*, relieve the Crown of liability in respect of a tort committed by the Commission or any person referred to in subsection (1) to which the Crown would otherwise be subject and the Crown is liable under that Act for any such tort in a like manner as if subsection (1) had not been enacted. 1978, c. 48, s. 64. Liability of Crown
R.S.O. 1980,
c. 393

65. The Lieutenant Governor in Council may make regulations, Regulations

1. prescribing requirements respecting applications for registration and renewal of registration, and providing for the expiration of registrations;
2. classifying registrants into categories and prescribing the terms and conditions of registration of registrants in each category;
3. governing the furnishing of information to the public or to the Commission by a registrant in connection with contracts or trades therein;
4. designating any person or company or any class of persons or companies that shall not be required to obtain registration as an adviser;
5. designating any goods, article, service, right or interest, or class thereof, a commodity;
6. prescribing conditions for the conduct of the business of a commodity futures exchange;
7. prescribing conditions precedent to the recognition of self-regulatory bodies under section 15;
8. prescribing the fees payable to the Commission including fees for filing, fees upon applications for registration, fees in respect of audits made by the Commission and other fees in connection with the administration of this Act and the regulations;
9. prescribing the documents, certificates, reports, releases, statements, agreements and other particulars relating thereto that are required to be filed, furnished or delivered under this Act and the regulations;
10. prescribing the practice and procedure of investigations under sections 7 and 9;
11. prescribing the forms for use under this Act and the regulations;
12. respecting the content and distribution of written, printed or visual material and advertising that may be distributed or used by a person or company in respect of a contract;
13. prescribing the form and content of the written statement required by section 40;

14. prescribing the form and content of the written agreement referred to in subsection 46 (2);
15. respecting the practice and procedure for the segregation of customers' money, securities, property, proceeds and funds under section 46;
16. permitting the Commission or the Director to exempt any person or company from the provisions of the regulations or vary the provisions as they apply to any person or company. 1978, c. 48, s. 65.

66. The Commission may, where in its opinion to do so Commission's discretion would not be prejudicial to the public interest, make an to revoke or vary its decision order on such terms and conditions as it may impose decision revoking or varying any decisions made by it under this Act or the regulations. 1978, c. 48, s. 66.

CHAPTER 79

Community Psychiatric Hospitals Act

1. In this Act,

Interpre-
tation

- (a) "hospital" means a community psychiatric hospital established or approved under section 3;
- (b) "Minister" means the Minister of Health;
- (c) "patient" means a person received and lodged in a hospital for the purpose of treatment;
- (d) "provincial aid" means aid granted to a hospital out of moneys appropriated for the purpose by the Legislature;
- (e) "regulations" means the regulations made under this Act;
- (f) "treatment" means the maintenance, observation, nursing, medical and other care of a patient. R.S.O. 1970, c. 74, s. 1.

2. The Minister is responsible for the administration of this Act. R.S.O. 1970, c. 74, s. 2.

Administra-
tion of Act

3. The Lieutenant Governor in Council may establish one or more hospitals for the care and treatment of persons suffering from emotional or psychiatric disorders as community psychiatric hospitals and he may approve all or any part of any institution, building or other premises or place as such a community psychiatric hospital. R.S.O. 1970, c. 74, s. 3.

Establish-
ment and
approval of
community
psychiatric
hospitals

4.—(1) Where the Lieutenant Governor in Council establishes a hospital under this Act, he shall designate the name by which the hospital is to be known and he shall appoint a board of governors composed of not fewer than eight members, including members *ex officio*, to maintain and operate the hospital.

Name and
board of
hospital
established
under
this Act

(2) Every board of a hospital is a corporation.

Corporate
status

(3) Vacancies in the board of a hospital may be filled from time to time by the Lieutenant Governor in Council.

Vacancies

Officers
and staff

(4) The board of a hospital may employ a director and such other officers and staff as are from time to time required for its purposes, and may pay the director, other officers and staff such remuneration as it considers proper out of its funds.

By-laws

(5) Subject to the approval of the Lieutenant Governor in Council, the board of a hospital may make such by-laws, rules and regulations as it considers expedient for the administration of its affairs.

Agreements

(6) Subject to the approval of the Lieutenant Governor in Council, the board of a hospital may make agreements with universities, medical associations, hospitals and persons for the purpose of carrying out its objects.

Funds

(7) The funds of the board of a hospital consist of moneys received by it from any source and it may disburse, expend or otherwise deal with any of its funds in such manner not contrary to law as it considers proper.

Audit

(8) The accounts of the board of a hospital shall be audited annually by the Provincial Auditor or by such other auditor as the Lieutenant Governor in Council designates, in which event the costs of the audit shall be paid out of the funds of the board.

Annual
report

(9) The board of a hospital shall, after the close of each fiscal year, make a report upon its affairs during the preceding year to the Minister and every such report shall contain a financial statement, certified by the auditor, showing all moneys received and disbursed by it during the preceding year. R.S.O. 1970, c. 74, s. 4.

General
powers
continued

5. Every hospital has power to carry on its undertaking as authorized by any general or special Act, but, where the provisions of any general or special Act conflict with the provisions of this Act or the regulations, the provisions of this Act and the regulations prevail. R.S.O. 1970, c. 74, s. 5.

Application
of
R.S.O. 1980,
c. 410

6. The Lieutenant Governor in Council may designate any provision of the *Public Hospitals Act* or of the regulations thereunder as being applicable to any hospital under this Act. R.S.O. 1970, c. 74, s. 6.

No
taxation

7. The real and personal property, business and income of a hospital are not subject to assessment or taxation for municipal or provincial purposes. R.S.O. 1970, c. 74, s. 7.

8. The Minister may pay hospitals provincial aid in such manner, in such amounts and under such conditions as are prescribed by the regulations. R.S.O. 1970, c. 74, s. 8.

9. The Lieutenant Governor in Council may make regulations with respect to hospitals for,

- (a) their construction, alteration, equipment, safety, maintenance and repair;
- (b) their inspection, control, government, management, conduct, operation and use;
- (c) their superintendents, other officers and staffs and the powers and duties thereof;
- (d) their classifications, grades and standards, and the classification of patients, and the length of stay of and the rates and charges for patients;
- (e) the admission, treatment, care, conduct, control, custody and discharge of patients or any class of patients;
- (f) prescribing the classes of grants by way of provincial aid to hospitals and the methods of determining the amounts of grants and providing for the manner and times of payment and the suspension and withholding of grants and for the making of deductions from grants;
- (g) any matter necessary or advisable to carry out effectively the intent and purpose of this Act. R.S.O. 1970, c. 74, s. 9.

CHAPTER 80

Community Recreation Centres Act

1.—(1) In this Act,

Interpre-
tation

- (a) “approved corporation” means a corporation approved under section 8;
- (b) “band”, “council of the band” and “reserve” have the same meaning as in the *Indian Act* (Canada); R.S.C. 1970,
c. I-6
- (c) “board” means a board as defined in the *Education Act*; R.S.O. 1980,
c. 129
- (d) “committee of management” means a committee appointed under section 5;
- (e) “community recreation centre” means land or all or any part of a building or buildings or structure established in accordance with this Act that is maintained and operated for community recreation activity;
- (f) “corporation” means a corporation without share capital having objects of a charitable, educational or social nature,
 - (i) to which Part III of the *Corporations Act* applies, R.S.O. 1980,
c. 95
or
 - (ii) that is incorporated under a general or special Act of the Parliament of Canada;
- (g) “Minister” means the Minister of Culture and Recreation;
- (h) “municipality” means a city, town, village, township or improvement district;
- (i) “regulations” means the regulations made under this Act. 1974, c. 80, s. 1 (1); O. Reg. 52/76.

Community centre deemed community recreation centre
R.S.O. 1970, c. 73

(2) For the purposes of this Act, a community centre established under *The Community Centres Act* shall be deemed to be a community recreation centre established in accordance with this Act. 1974, c. 80, s. 1 (2).

By-laws for the establishment of community recreation centres

2.—(1) The council of a municipality may, by by-law, provide for the establishment, maintenance and operation of one or more community recreation centres in accordance with this Act and the regulations and may acquire by purchase, lease or otherwise real and personal property for that purpose and the council shall submit a copy of the by-law to the Minister.

By-law for acquiring land in another municipality

(2) A by-law enacted pursuant to subsection (1) may provide for acquiring land and establishing a community recreation centre in territory without municipal organization that is contiguous to the establishing municipality or in a municipality that is contiguous to the establishing municipality.

Debentures
R.S.O. 1980, c. 302

(3) A municipality may issue debentures for the purpose of subsection (1) in the manner provided by the *Municipal Act*.

Grants in aid

(4) The council of a municipality may pass by-laws granting aid to community recreation centres.

Council may prescribe fees, etc.

(5) The council of a municipality may prescribe fees and fix charges for the admittance to or the use of a community recreation centre and may from year to year or for any time not exceeding ten years let the right to sell refreshments within the community recreation centre on such terms and conditions as the council may prescribe. 1974, c. 80, s. 2.

Establishment of community recreation centres by boards

3.—(1) A board with jurisdiction in territory without municipal organization may provide for the establishment, maintenance and operation of one or more community recreation centres in accordance with this Act and the regulations in such territory without municipal organization and may acquire by purchase, lease or otherwise real and personal property for that purpose.

Board may prescribe fees, etc.

(2) A board that establishes a community recreation centre under subsection (1) may prescribe fees and fix charges for the admittance to or the use of the community

recreation centre and may from year to year or for any time not exceeding ten years let the right to sell refreshments within the community recreation centre on such terms and conditions as the board may prescribe. 1974, c. 80, s. 3.

4. The council of a municipality may enter into an agree-^{Agreements for joint use of community recreation centres}ment with the council or councils of any other municipality or municipalities for the joint establishment or use of a community recreation centre upon such terms as may be agreed respecting the cost and maintenance of the community recreation centre and the council shall submit a copy of the agreement to the Minister. 1974, c. 80, s. 4.

5.—(1) The council of a municipality or a board establish-^{Composition of committee}ing a community recreation centre under this Act may appoint a committee for the management and control of the community recreation centre composed of not fewer than three persons who are qualified to be elected as members of the council or of the board, as the case may be, and where the committee is composed of five or more persons, at least two shall be members of the council or of the board, as the case may be.

(2) The council or board may appoint one committee of^{Joint committee} management in the manner provided in subsection (1) to manage and control any or all community recreation centres established by the municipality or board, as the case may be.

(3) The members of the committee of management shall be^{Appoint-ments} appointed annually by the council or board, as the case may be.

(4) Notwithstanding subsection (1), where financial aid or contribution in respect of the establishment or maintenance of a community recreation centre under this Act is granted or made by any person, society, board or other body or by any other municipality not within the territorial jurisdiction of the municipality or board, as the case may be, that establishes the community recreation centre, the council of that municipality or board may appoint as members of the committee of management persons who are not qualified to be elected as members of the council of the municipality or board, as the case may be, that establishes the community recreation centre, but any persons appointed to represent a municipality or board contributing to the cost of the community recreation centre under an agreement for the joint establishment or use thereof shall be qualified to be elected as a member of the council of the contributing municipality or as a member of the contributing board, as the case may be.

Quorum (5) A majority of the members of the committee of management shall be a quorum.

Committee may make rules and fix charges (6) The committee of management of a community recreation centre may make such rules as it considers necessary relating to the management and control thereof and may fix such charges for the use of the community recreation centre as it considers advisable.

Power of committee to let the right to sell refreshments (7) Subject to subsection 2 (5) and subsection 3 (2), the committee of management of a community recreation centre has the power to let from year to year, or for any time not exceeding ten years, the right to sell refreshments on such terms and conditions as the committee shall prescribe.

Assets and liabilities to vest in establishing municipality or board
R.S.O. 1980, c. 129 (8) Notwithstanding subsection (1), and subject to any agreement entered into under section 4 of this Act or under section 160 of the *Education Act*, all assets realized and liabilities incurred in connection with a community recreation centre shall vest in the municipality or board, as the case may be, that establishes the community recreation centre.

Estimate of committee's financial requirements (9) A committee of management shall submit annually for approval by the council of the municipality or board, as the case may be, that establishes the community recreation centre, an estimate of the committee's net financial requirements for the year, and the council of the municipality or board, as the case may be, may amend the estimate prior to approval and where the estimate is approved, shall pay out of moneys appropriated for the committee such amounts as may be requisitioned by the committee from time to time but not exceeding in any year the amount of the approved estimate.

Idem (10) Where a community recreation centre is jointly established pursuant to an agreement under section 4, the committee of management shall submit its estimate for approval by the council of each participating municipality together with a statement as to the proportion of the estimate to be charged to each municipality and the provisions of subsection (9) shall apply with necessary modifications.

Idem (11) A committee of management shall not make or incur liability for any expenditure that is not approved under subsection (9) or (10) as part of its annual estimate and the municipality or board that establishes the community recreation centre or that participates in the joint establishment or use of the community centre, as

the case may be, shall not be liable for any expenditure that is not approved under subsection (9) or (10). 1974, c. 80, s. 5.

6.—(1) The Minister may out of moneys appropriated therefor by the Legislature direct payment to a municipality of an amount computed in accordance with the regulations towards the cost, approved by the Minister, of the erection, alteration, extension, acquisition by purchase, lease or otherwise or the renovation of a community recreation centre but not exceeding the lesser of \$75,000 or 25 per cent or such greater amount as the regulations prescribe of such cost for any community recreation centre. Grants to municipalities

(2) Notwithstanding subsection (1), where an agreement for the joint establishment or use of a community centre is entered into under section 4, or under section 160 of the *Education Act*, the amount of the grant under subsection (1) to each participating municipality shall not exceed the lesser of \$75,000 or 25 per cent or such greater amount as the regulations prescribe of the value of the contribution by the municipality for the community recreation centre. Idem R.S.O. 1980, c. 129

(3) Where a community recreation centre was established in a municipality by a board prior to the 1st day of April, 1975, the Minister may out of moneys appropriated therefor by the Legislature direct payment to the board of an amount computed in accordance with subsection (1) towards the cost, approved by the Minister, of the alteration, extension or renovation of the community recreation centre. 1974, c. 80, s. 6. Grants to boards under predecessor Act

7. No grant shall be made under section 6 or 9 for the erection, alteration, extension, acquisition or renovation of a community recreation centre until the plans therefor have been submitted to the Minister. 1974, c. 80, s. 7. Plans to be submitted to Minister

8. Where the Minister is satisfied that any corporation is, with financial assistance under this Act, financially capable of establishing, maintaining and operating a community recreation centre and that its affairs are carried on under competent management in good faith for charitable, educational or social purposes, he may approve such corporation as a corporation for the purposes of this Act. 1974, c. 80, s. 8. Approval of corporation by Minister

9. The Minister may, out of moneys appropriated therefor by the Legislature and upon such terms and conditions as he may determine, direct payment to, Grants in unorganized territories

(a) the council of a band;

(b) an approved corporation where the community recreation centre is or will be in territory without municipal organization; or

(c) a board with jurisdiction in territory without municipal organization where the community recreation centre is or will be in such territory,

for the erection, alteration, extension, acquisition by purchase, lease or otherwise, or the renovation of a community recreation centre. 1974, c. 80, s. 9.

Change of
site or use
or disposal
of community
recreation
centres

10. No municipality, board, band or approved corporation that has been paid a grant under section 6 or 9, as the case may be, in respect of a community recreation centre shall change the site or use of the community recreation centre or sell, lease, mortgage or otherwise dispose of any part of or interest in the community recreation centre without the approval in writing of the Minister, and such approval may be subject to such terms and conditions as the Minister may consider advisable, including a condition requiring the repayment in whole or in part of any such grant. 1974, c. 80, s. 10.

Suspension
or revocation
of approval

11.—(1) An approval given under this Act may be suspended or revoked by the Minister, where,

(a) a director, officer or servant of the municipality, board or approved corporation, as the case may be, has contravened or knowingly permitted a person under his control and direction to contravene a provision of this Act or the regulations and such contravention occurred through lack of competence or with intent to evade the requirements of such provision; or

(b) the approval would be refused if application were being made for it in the first instance.

Hearing

(2) Subject to subsection (6) and except where an approval is suspended or revoked with consent of the municipality, board or approved corporation, as the case may be, before suspending or revoking an approval given under this Act, the Minister shall cause a hearing as to whether the approval should be suspended or revoked to be held by a person, other than a person in the employment of the Ministry of Culture and Recreation, appointed by the Minister.

Application
of
R.S.O. 1980,
c. 484

(3) Sections 4 to 16 and 21 to 24 of the *Statutory Powers Procedure Act* apply with respect to a hearing under this section.

(4) The person conducting a hearing under this section shall, at the conclusion of the hearing, make a report to the Minister setting out his findings of fact and any information or knowledge used by him in making his recommendations, and his recommendations as to the suspension or revocation of the approval, and shall send a copy of his report to the persons affected. Report

(5) After considering a report made to him under this section, the Minister may thereupon suspend or revoke the approval to which the report relates and shall give notice of his decision to the persons affected, specifying the reasons therefor. Decision of Minister

(6) Notwithstanding anything in this section, the Minister, by notice to the persons affected and without a hearing, may provisionally suspend an approval given under this Act, where the continuation of operations in accordance with the approval is, in the Minister's opinion, an immediate threat to the health or safety of any person or to the public and the Minister so states in such notice giving his reasons therefor, and thereafter the Minister shall cause a hearing to be held and the provisions of subsections (2) to (5) apply. 1974, c. 80, s. 11. Provisional suspension

12. The Lieutenant Governor in Council may make regulations, Regulations

- (a) governing applications by municipalities, boards, approved corporations and bands for payments under this Act, and prescribing the terms and conditions upon which such payments may be made, and the time and manner of payment;
- (b) prescribing classes of grants and the manner of computing the amounts of such grants or any class thereof payable under this Act;
- (c) prescribing the greater amount of the maximum of a grant or class thereof for the purposes of section 6;
- (d) prescribing the uses to which a community recreation centre may be put and the accommodation that may be provided therein;
- (e) prescribing the powers and duties of municipalities, committees of management, bands and boards as they relate to the operation and management of a community recreation centre and providing for the appointment of officers of such committees;

(*f*) prescribing the records to be kept and the returns to be made to the Minister in respect of community recreation centres and the method, time and manner in which such records and returns shall be made;

(*g*) prescribing forms and providing for their use. 1974, c. 80, s. 12.

CHAPTER 81

Commuter Services Act

1. In this Act, "Minister" means the member of the Executive Council to whom the administration of this Act is assigned by the Lieutenant Governor in Council. R.S.O. 1970, c. 75, s. 1. Interpretation

2.—(1) The Minister is responsible for the administration of this Act. Administration of Act

(2) The Minister may delegate any of his powers under this Act to any one or more Crown employees as defined in the *Public Service Act*. R.S.O. 1970, c. 75, s. 2. Delegation
R.S.O. 1980, c. 418

3.—(1) Her Majesty in right of the Province of Ontario, represented by the Minister, may, Establishment and operation of commuter services

(a) establish and operate; and

(b) with the approval of the Lieutenant Governor in Council, enter into agreements with Canadian National Railways and any other corporation or individual, or any one or more of them, with respect to any matter or thing having as its object the establishment and operation, or either of them, of,

commuter services to serve any one or more areas in Ontario.

(2) Any municipality, including any metropolitan municipality, is a corporation for the purpose of subsection (1), and is hereby authorized and empowered to enter into agreements thereunder. R.S.O. 1970, c. 75, s. 3. Idem, municipalities

4.—(1) The Minister may, Acquisition of property

(a) acquire by purchase, lease or otherwise any rolling stock, equipment, apparatus or thing; and

(b) acquire by purchase, lease or otherwise or expropriate any land or any interest in land,

that may be required for the establishment and operation, or either of them, of any commuter service that is or is to be provided under section 3.

Disposition
of property

(2) The Minister may sell, lease or otherwise dispose of any rolling stock, equipment, apparatus or thing or any land or any interest in land no longer required for the purposes of this Act. R.S.O. 1970, c. 75, s. 4.

Regulations

5.—(1) The Lieutenant Governor in Council may make regulations,

- (a) prohibiting or regulating the use of any land or any interest in land acquired under subsection 4 (1) and prohibiting or regulating vehicular traffic and pedestrian traffic on any such land or interest in land;
- (b) requiring and providing for the issue of permits and licences and providing for the granting of rights in respect of the use of any such land or interest in land, and providing for the revocation of any such permit, licence or right;
- (c) prescribing the fees or rentals payable for any permit, licence or right issued or granted in respect of any such land or interest in land;
- (d) prescribing fares that shall be charged and collected for any service;
- (e) governing the terms and conditions upon which tickets may be sold;
- (f) governing the conduct of passengers and for refusing passage to persons who do not comply with the regulations or the terms and conditions upon which tickets are sold;
- (g) imposing fines of not more than \$100, exclusive of costs, upon every person who contravenes any provision of a regulation made under this section;
- (h) providing a procedure for the voluntary payment of fines out of court in cases where it is alleged that the parking provisions of a regulation made under this section have been contravened, and, if payment is not made in accordance with the procedure, subsection (2) applies. R.S.O. 1970, c. 75, s. 5 (1).¹

Penalty

(2) Every person who contravenes any provision of a regulation made under subsection (1) is guilty of an offence and on conviction is liable to the fine imposed therefor by the regulations. R.S.O. 1970, c. 75, s. 5 (2), *revised*.

(3) The owner of a motor vehicle that is parked in contravention of a regulation made under subsection (1) is guilty of an offence and on conviction is liable to the fine imposed therefor by the regulations, unless at the time of the contravention the motor vehicle was in the possession of some person other than the owner or his chauffeur without the owner's consent, and the driver of the motor vehicle not being the owner shall also incur the fines imposed for any such contravention. R.S.O. 1970, c. 75, s. 5 (3) *revised*.

Motor
vehicle
owner and
driver
liable to
penalties

(4) The Minister may appoint one or more Crown employees as an officer or officers for the purposes of carrying out all or any of the provisions of the regulations made under subsection (1), and any person so appointed is a constable for such purpose and for the purposes of section 19 of the *Highway Traffic Act*.

Appoint-
ment of
officers
to carry out
regulations
R.S.O. 1980,
c. 198

(5) A person appointed under subsection (4) shall, while carrying out his duties under the appointment, have in his possession a certificate of his appointment under subsection (4) and shall produce such certificate upon request. R.S.O. 1970, c. 75, s. 5 (4, 5).

Certificate
of appoint-
ment

CHAPTER 82

Compensation for Victims of Crime Act

1.—(1) In this Act,

Interpre-
tation

- (a) “Board” means the Criminal Injuries Compensation Board;
- (b) “child” means a child born within or outside marriage, subject to sections 86 and 87 of the *Child Welfare Act* (which relate to the effect of adoption), and includes a grandchild of the victim and a person whom the victim has demonstrated a settled intention to treat as a child of his family, and includes a child of the victim conceived before and born alive after the victim’s death, but does not include a child placed in the home of the victim as a foster child for consideration by a person having lawful custody; R.S.O. 1980,
c. 66
- (c) “dependant” means,
 - (i) the spouse of the victim,
 - (ii) a parent of the victim, including a grandparent and a person who has demonstrated a settled intention to treat the victim as a child of his family, but does not include a person in whose home the victim was placed as a foster child for consideration by a person having lawful custody,
 - (iii) a child of the victim,
 - (iv) a brother or sister of the victim, and
 - (v) any other relative of the victim,

who was in whole or in part dependent on the victim for support at the time of his death;
- (d) “injury” means actual bodily harm and includes pregnancy and mental or nervous shock and “injured” has a corresponding meaning;

(e) "Minister" means the Attorney General;

R.S.C. 1970,
c. C-34

(f) "peace officer" means a peace officer as defined in the *Criminal Code* (Canada);

(g) "victim" means a person injured or killed in the circumstances set out in section 5. 1971, c. 51, s. 1 (1); 1972, c. 1, s. 9 (7); 1977, c. 40, s. 89 (1).

Unmarried
spouses

(2) The Board may direct that a person was the spouse of a deceased victim for the purposes of this Act where the Board finds that,

(a) they were a man and a woman who, not being married to each other, had been cohabiting immediately before the death of the victim,

(i) continuously for a period of not less than five years, or

(ii) in a relationship of some permanence where there is a child born of whom they are the natural parents; or

(b) their marriage was terminated by a decree absolute of divorce or was declared a nullity and the spouse was a person to whom the victim was providing support or was under a legal obligation to provide support immediately before his death. 1977, c. 40, s. 89 (2).

Administra-
tion of Act

2. The Minister is responsible for the administration of this Act. 1971, c. 51, s. 2.

Criminal
Injuries
Compensa-
tion Board

3.—(1) The Criminal Injuries Compensation Board is continued and shall be composed of such number of members, not fewer than five, as are appointed by the Lieutenant Governor in Council, and the Lieutenant Governor in Council shall appoint one of such members as chairman and one or more of them as vice-chairmen. 1971, c. 51, s. 3 (1); 1979, c. 105, s. 1.

Board a
corporation
R.S.O. 1980,
c. 95

(2) The Board is a corporation to which the *Corporations Act* does not apply.

(3) The chairman shall have general supervision and direction over the conduct of the affairs of the Board, and shall arrange the sittings of the Board and assign members to conduct hearings as circumstances require. ^{Duties of chairman}

(4) The chairman may designate a vice-chairman who shall exercise the powers and perform the duties of the chairman when the chairman is absent or unable to act. 1971, c. 51, s. 3 (2-4). ^{Substitute chairman}

4. The Board shall prepare and periodically publish a summary of its decisions and the reasons therefor. 1971, c. 51, s. 4. ^{Publishing reports}

5. Where any person is injured or killed by any act or omission in Ontario of any other person occurring in or resulting from, ^{Injuries compensable}

(a) the commission of a crime of violence constituting an offence against the *Criminal Code* (Canada), including poisoning, arson, criminal negligence and an offence under section 84 of that Act but not including an offence involving the use or operation of a motor vehicle other than assault by means of a motor vehicle; ^{R.S.C. 1970, c. C-34}

(b) lawfully arresting or attempting to arrest an offender or suspected offender for an offence against a person other than the applicant or his dependant or against such person's property, or assisting a peace officer in executing his law enforcement duties; or

(c) preventing or attempting to prevent the commission of an offence or suspected offence against a person other than the applicant or his dependant or against such person's property,

the Board, on application therefor, may make an order that it, in its discretion exercised in accordance with this Act, considers proper for the payment of compensation to,

(d) the victim;

(e) a person who is responsible for the maintenance of the victim;

(f) where the death of the victim has resulted, the victim's dependants or any of them or the person

who was responsible for the maintenance of the victim immediately before his death or who has, on behalf of the victim or his estate and not being required by law to do so, incurred an expense referred to in clause 7 (1) (a) or (e) arising from the act or omission. 1971, c. 51, s. 5.

**Limitation
period for
application**

6. An application for compensation shall be made within one year after the date of the injury or death but the Board, before or after the expiry of the one-year period, may extend the time for such further period as it considers warranted. 1971, c. 51, s. 6.

**Compensa-
tion**

7.—(1) Compensation may be awarded for,

- (a) expenses actually and reasonably incurred or to be incurred as a result of the victim's injury or death;
- (b) pecuniary loss incurred by the victim as a result of total or partial disability affecting the victim's capacity for work;
- (c) pecuniary loss incurred by dependants as a result of the victim's death;
- (d) pain and suffering;
- (e) maintenance of a child born as a result of rape;
- (f) other pecuniary loss resulting from the victim's injury and any expense that, in the opinion of the Board, it is reasonable to incur.

Idem

(2) Where the injury to a person occurred in the circumstances mentioned in clause 5 (b) or (c), the Board may, in addition to the compensation referred to in subsection (1), award compensation to the injured person for any other damage resulting from the injury for which damages may be recovered at common law. 1971, c. 51, s. 7.

**Referral
for hearing**

8. Where an application is made under section 5, the chairman of the Board shall refer the application,

- (a) to the Board for a hearing conducted by at least two members of the Board; or
- (b) to one member of the Board for a hearing by him,

as the chairman may direct. 1971, c. 51, s. 8.

9.—(1) The Board or member to whom an application is referred under section 8 shall fix a time and place for the hearing of the application and shall at least ten days before the day fixed cause notice thereof to be served upon the applicant, upon the Minister, upon the offender where practicable and upon any other person appearing to the Board or member to have an interest in the application.

Notice of
hearing by
one member
of Board

(2) Every person upon whom notice of a hearing is served and any other person added by the Board or member is a party to the proceedings.

Parties

(3) The Board or member shall hold the hearing and make an order under section 5, and, subject to section 10, this Act applies in respect of the hearing and jurisdiction of the member in the same manner as to the Board. 1971, c. 51, s. 9.

Jurisdiction
of member

10.—(1) Where an application is heard by a single member of the Board under section 9, the applicant or the Minister may, within fifteen days after service of the decision of the member, require a hearing and review by the Board and the Board shall fix a time and place for the hearing and shall at least ten days before the day fixed cause notice thereof to be served upon the parties to the proceedings.

Hearing
and
review by
Board

(2) The Board may add persons as parties to the proceedings during a review under this section.

Adding
parties

(3) The hearing shall be conducted and the jurisdiction of the Board shall be exercised by at least two members of the Board and the member whose decision is being reviewed shall not sit on the review.

Quorum

(4) After a hearing and review by the Board under this section, the Board shall make its order in accordance with this Act and its order supersedes the order of a single member made under section 9 that is the subject of the hearing and review. 1971, c. 51, s. 10.

Order of
Board

11. If a person is convicted of a criminal offence in respect of an act or omission on which a claim under this Act is based, proof of the conviction shall, after the time for an appeal has expired or, if an appeal was taken, it was dismissed and no further appeal is available, be taken as conclusive evidence that the offence has been committed. 1971, c. 51, s. 11.

Conviction
as
conclusive
evidence

12. All hearings shall be held in public except where, in the opinion of the Board, it is necessary to hold the hearing *in camera* for the reason that a public hearing,

Hearings
to be
open to
public;
exceptions

(a) would be prejudicial to the trial of the person whose act or omission caused the injury or death; or

(b) would not be in the interests of the victim, or of the dependants of the victim, of an alleged sexual offence. 1971, c. 51, s. 12.

Publication
of evidence

13.—(1) The Board may make an order prohibiting the publication of any report or account of the whole or any part of the evidence at a hearing where the Board considers it necessary but in making an order under this subsection the Board shall have regard to the desirability of permitting the public to be informed of the principles and nature of each case.

Offence

(2) Any person who publishes a report or account of any evidence at a hearing contrary to an order of the Board under subsection (1) is guilty of an offence and on conviction is liable to a fine of not more than \$2,000 or to imprisonment for a term of not more than one year, or to both.

Corporations

(3) Where a corporation is convicted of an offence under subsection (2), the maximum penalty that may be imposed upon the corporation is \$25,000 and not as provided therein. 1971, c. 51, s. 13.

Interim
compensa-
tion

14. Where,

(a) the applicant is in actual financial need; and

(b) it appears to the Board that it will probably award compensation to the applicant,

the Board may, in its discretion, order interim payments to the applicant in respect of maintenance and medical expenses and, if compensation is not awarded, the amount so paid is not recoverable from the applicant. 1971, c. 51, s. 14.

Service

15.—(1) Any notice or document required to be served under this Act or the regulations is sufficiently served if delivered personally or sent by registered mail addressed to the person upon whom service is required to be made at the latest address for service appearing on the records of the Board.

Idem

(2) Where any notice or document mentioned in subsection (1) is served by registered mail, the service shall be deemed to be made on the third day after the day of mailing unless the person to be served did not, acting in good faith, through absence, accident, illness or other cause beyond his control, receive the notice or document or receive it until a later date.

(3) Notwithstanding subsections (1) and (2), the Board may ^{Exception} order any other method of service of any notice or document mentioned in subsection (1). 1971, c. 51, s. 15.

16.—(1) An order for compensation may be made whether ^{Compensation not dependent on a conviction} or not any person is prosecuted for or convicted of the offence giving rise to the injury or death but the Board may, on its own initiative or upon the application of the Minister, adjourn its proceedings pending the final determination of a prosecution or intended prosecution.

(2) Notwithstanding that a person for any reason is legally ^{Capacity for mens rea} incapable of forming criminal intent, he shall, for the purposes of this Act, be deemed to have intended an act or omission that caused injury or death for which compensation is payable under this Act. 1971, c. 51, s. 16.

17.—(1) In determining whether to make an order for ^{Considerations of Board} compensation and the amount thereof, the Board shall have regard to all relevant circumstances, including any behaviour of the victim that may have directly or indirectly contributed to his injury or death. 1971, c. 51, s. 17 (1).

(2) The Board may, in its discretion, refuse to make an ^{Idem} order for compensation where it is satisfied that the applicant has refused reasonable co-operation with, or failed to report promptly the offence to, a law enforcement agency. 1973, c. 34, s. 1.

(3) In assessing pecuniary loss, the Board shall take into ^{Idem} consideration any benefit, compensation or indemnity payable to the applicant from any source. 1971, c. 51, s. 17 (2).

18. The Board may order compensation to be paid in a ^{Form of compensation} lump sum or in periodic payments, or both, as the Board thinks fit. 1971, c. 51, s. 18.

19.—(1) The amount awarded by the Board to be paid in ^{Maximum awards} respect of the injury or death of one victim shall not exceed,

(a) in the case of lump sum payments, \$15,000; and

(b) in the case of periodic payments, \$500 per month,

and where both lump sum and periodic payments are awarded, the lump sum shall not exceed half of the maximum therefor prescribed in clause (a).

(2) The total amount awarded by the Board to be paid to ^{Maximum total of payments for occurrence} all applicants in respect of any one occurrence shall not exceed,

(a) in the case of lump sum payments, a total of \$100,000; and

(b) in the case of periodic payments, a total of \$175,000.

Pro rata
distribution

(3) Where the total amount awarded in respect of any one occurrence exceeds the maximum amount prescribed by subsection (2), the amount prescribed shall be distributed *pro rata* in proportion to the amounts of the awards that would otherwise have been made.

Acts deemed
an
occurrence

(4) For the purposes of this section, the Board may deem more than one act to be one occurrence where the acts have a common relationship in time and place.

Application
of subss.
(1) and (2)

(5) Subsection (1) does not apply to amounts awarded in respect of an injury or death incurred under clause 5 (b) or (c) and such amounts shall not be taken into account for the purposes of subsection (2). 1971, c. 51, s. 19.

Award not
subject to
garnish-
ment,
etc.

20. Any money paid or payable by way of compensation under this Act or held by the Public Trustee or other person under an order made by the Board under subsection 21 (3) is not subject to garnishment, attachment, execution, set-off or any other legal process and the right thereto is not assignable. 1973, c. 34, s. 2.

Conditions
of payment

21.—(1) An order for the payment of compensation may be made subject to such terms and conditions as the Board thinks fit,

(a) with respect to the payment, disposition, allotment or apportionment of the compensation; or

(b) as to the holding of the compensation or any part thereof in trust for the victim or the dependants, or any of them, whether as a fund for a class or otherwise.

Idem

(2) Any compensation payable for expenses under section 7 may, in the discretion of the Board, be paid directly to the person entitled thereto. 1971, c. 51, s. 20.

Payments
in case of
minor, etc.

(3) If a person entitled to an award under this Act is under the age of eighteen years or is of unsound mind or in the opinion of the Board is incapable of managing his own affairs, any amount payable to him may be paid on his behalf to his parent, spouse or committee or to the Public

Trustee or may be paid to such other person or applied in such manner as the Board considers in the best interest of such person, and amounts so paid shall be received and administered by the payee for the benefit of the person. 1973, c. 34, s. 3.

22. Notwithstanding section 19, the Board may, with ^{Costs} respect to any hearing or other proceeding under this Act, make such order as to costs as it thinks fit. 1971, c. 51, s. 21.

23. Subject to section 25, a decision of the Board is final ^{Appeal} except that an appeal lies to the Divisional Court from any decision of the Board on any question of law. 1971, c. 51, s. 22.

24. The Board shall, upon request, release documents and ^{Release of exhibits} things put in evidence at a hearing to the lawful owner or the person entitled to possession thereof within a reasonable time after the matter in issue has been finally determined. 1971, c. 51, s. 23.

25.—(1) The Board may at any time on its own initiative or on the application of the victim, any dependant of the victim, the Minister or the offender, vary an order for payment of compensation in such manner as the Board thinks fit, whether as to terms of the order or by increasing or decreasing the amount ordered to be paid, or otherwise. ^{Variation of award}

(2) In proceedings under subsection (1), the Board shall con- ^{Idem} sider,

- (a) any new evidence that has become available;
- (b) any change of circumstances that has occurred since the making of the order or any variation thereof, as the case may be, or that is likely to occur; and
- (c) any other matter the Board considers relevant.

(3) This Act, except section 6, applies to a review under sub- ^{Procedure, etc., on review} section (1) in the same manner as to an application for compensation. 1971, c. 51, s. 24.

26.—(1) Subject to subsections (2), (3) and (4), nothing in this ^{Civil proceedings} Act affects the right of any person to recover from any other person by civil proceedings damages in respect of the injury or death.

(2) The Board is subrogated to all the rights of the person ^{Subrogation} to whom payment is made under this Act to recover

damages by civil proceedings in respect of the injury or death and may maintain an action in the name of such person against any person against whom such action lies, and any amount recovered by the Board shall be applied,

(a) first, to payment of the costs actually incurred in the action and in levying execution; and

(b) second, to reimbursement of the Board for the value of the compensation awarded,

and the balance, if any, shall be paid to the person whose rights were subrogated.

Settlement

(3) Any settlement or release does not bar the rights of the Board under subsection (2) unless the Board has concurred therein.

Civil actions

(4) An applicant for or a person awarded compensation shall forthwith notify the Board of any action he has brought against the offender who caused the injury or death of the victim. 1971, c. 51, s. 25.

Payment of compensation

27.—(1) Compensation ordered to be paid shall be paid out of the moneys appropriated therefor by the Legislature.

Disposition of money recovered

(2) Any reimbursement to the Board under section 26 shall be paid into the Consolidated Revenue Fund. 1971, c. 51, s. 26.

Regulations

28. The Lieutenant Governor in Council may make regulations,

(a) prescribing rules of practice and procedure in respect of applications to the Board and proceedings of the Board;

(b) requiring the payment of fees in respect of any matter in the jurisdiction of the Board, including witness fees, and prescribing the amounts thereof;

(c) prescribing forms for the purposes of this Act and providing for their use;

(d) respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act. 1971, c. 51, s. 27.

Agreements with Canada

29. The Crown in right of Ontario represented by the Minister, with the approval of the Lieutenant Governor in Council, may make agreements with the Crown in right of

Canada respecting the payment by Canada to Ontario of such part of the expenditures required for the purposes of this Act as is agreed upon. 1971, c. 51, s. 28.

CHAPTER 83

Compulsory Automobile Insurance Act

1. In this Act,

Interpre-
tation

- (a) “agent” means an agent or broker within the meaning of the *Insurance Act* who is authorized to solicit automobile insurance; R.S.O. 1980,
c. 218
- (b) “Association” means the Facility Association referred to in subsection 7 (1);
- (c) “automobile insurance” means insurance against liability arising out of bodily injury to or the death of a person or loss of or damage to property caused by a motor vehicle or the use or operation thereof, and which,
- (i) insures at least to the limit required by section 219 of the *Insurance Act*,
 - (ii) provides the benefits prescribed in Schedule C to the *Insurance Act*, and
 - (iii) provides the benefits prescribed under section 231 of the *Insurance Act*;
- (d) “driver’s licence” has the same meaning as in the *Highway Traffic Act*; R.S.O. 1980,
c. 198
- (e) “highway” has the same meaning as in the *Highway Traffic Act*;
- (f) “insurance card” means,
- (i) a Motor Vehicle Liability Insurance Card in the form approved by the Superintendent,
 - (ii) a policy of automobile insurance or a certificate of a policy in the form approved by the Superintendent, or
 - (iii) such evidence of insurance as is prescribed by the regulations;
- (g) “insurer” means an insurer licensed under the *Insurance Act* and carrying on the business of automobile insur-

ance, but does not include an insurer whose licence is limited to contracts of reinsurance;

R.S.O. 1980,
c. 400

(h) "justice" means a justice under the *Provincial Offences Act*;

R.S.O. 1980,
c. 198

(i) "motor vehicle" has the same meaning as in the *Highway Traffic Act* and includes trailers and accessories and equipment of a motor vehicle;

(j) "Plan" means the Plan of Operation referred to in subsection 7 (3);

(k) "police officer" means a chief of police or other police officer or constable or a person appointed under section 194 of the *Highway Traffic Act* for the purpose of carrying out the provisions of that Act;

(l) "Registrar" means the Registrar of Motor Vehicles;

(m) "regulations" means the regulations made under this Act;

(n) "Superintendent" means the Superintendent of Insurance. 1979, c. 87, s. 1.

Compulsory
automobile
insurance

2.—(1) Subject to the regulations, no owner of a motor vehicle shall,

(a) operate the motor vehicle; or

(b) cause or permit the motor vehicle to be operated,

on a highway unless the motor vehicle is insured under a contract of automobile insurance.

Interpre-
tation

(2) For the purposes of subsection (1), where a permit for a motor vehicle has been issued under subsection 7 (3) of the *Highway Traffic Act*, "contract of automobile insurance" with respect to that motor vehicle means a contract of automobile insurance made with an insurer.

Offence

(3) Every owner of a motor vehicle who,

(a) contravenes subsection (1) of this section or subsection 13 (2); or

(b) surrenders an insurance card for inspection to a police officer, when requested to do so, purporting to show that

the motor vehicle is insured under a contract of automobile insurance when the motor vehicle is not so insured,

is guilty of an offence and on conviction is liable to a fine of not less than \$500 and not more than \$2,500 and, in addition, his driver's licence may be suspended for a period of not more than one year.

(4) Where a justice makes a conviction under subsection (3) and the driver's licence of the person convicted is suspended by the justice, the justice shall take the driver's licence and forward it to the Registrar. Justice to secure possession of driver's licence

(5) Where a driver's licence is suspended under this section and the person to whom the suspension applies refuses or fails to surrender his licence to the justice forthwith, any police officer may, and upon the direction of the Registrar shall, take possession of the licence and forward it to the Registrar. Police officer may secure possession

(6) Every person who fails or refuses to surrender his driver's licence when required by a police officer under subsection (5) is guilty of an offence and on conviction is liable to a fine of not more than \$100. Offence

(7) In the event of a conviction under subsection (3), the justice may order that the motor vehicle, Impounding motor vehicle

- (a) that was operated in contravention of subsection (1);
- (b) for which a false statement in respect of insurance was made in contravention of subsection 13 (2); or
- (c) for which an insurance card was produced in contravention of clause (3) (b),

shall be seized, impounded and taken into the custody of the law for a period of not more than three months.

(8) All costs and charges for the care and storage of the motor vehicle are a lien upon the motor vehicle that may be enforced in the manner provided by section 52 of the *Mechanics' Lien Act*. Cost of storage" R.S.O. 1980, c. 261

(9) If the person convicted under subsection (3) gives security to the satisfaction of the convicting justice, by bond, recognizance or otherwise, that the motor vehicle will not be operated upon a highway during the period specified by the justice in making an order under subsection (7), the motor vehicle may be released to the owner, and if the motor vehicle is operated upon a highway during such period it shall be deemed to have been operated without a permit, as defined in clause 6 (1) (d) of the *Highway Traffic Act*. Release of vehicle on security given by owner R.S.O. 1980, c. 198

Three year
limitation
period

(10) Proceedings may be commenced at any time within three years after the date on which an offence was, or is alleged to have been committed under subsection (1) or clause (3) (b) or subsection 13 (2). 1979, c. 87, s. 2.

Operator
to carry
insurance
card

3.—(1) An operator of a motor vehicle on a highway shall have in the motor vehicle at all times,

(a) an insurance card for the motor vehicle; or

(b) an insurance card evidencing that the operator is insured under a contract of automobile insurance,

and the operator shall surrender the insurance card for reasonable inspection upon the demand of a police officer.

Offence

(2) A person who contravenes subsection (1) is guilty of an offence and on conviction is liable to a fine of not more than \$200. 1979, c. 87, s. 3.

Particulars
to be
disclosed

4.—(1) An operator of a motor vehicle on a highway who is directly or indirectly involved in an accident shall, on the request of any person directly or indirectly involved in the accident, disclose to the person the particulars of the contract of automobile insurance insuring the motor vehicle.

Interpre-
tation

(2) For the purposes of subsection (1), “particulars of the contract of automobile insurance” means,

(a) the name and address of the insured;

(b) the make, model and serial number of the insured vehicle;

(c) the effective date and expiry date of the contract;

(d) the name of the insurer;

(e) the name of the insurer’s agent, if any; and

(f) the policy number of the contract. 1979, c. 87, s. 4.

Obligations
of agents

5. An agent shall,

(a) provide to an owner of a motor vehicle who is a resident of Ontario an application for automobile insurance; and

(b) submit to an insurer a completed application for automobile insurance,

when requested to do so by the owner of a motor vehicle. 1979, c. 87, s. 5.

6.—(1) An insurer shall issue, or cause its agent to issue, an insurance card to a person with whom a contract of automobile insurance is made or whose contract of automobile insurance is renewed.

Insurance card to be issued

(2) No insurer or its agent shall, on an insurance card, specify an effective date earlier than the date on which the contract of automobile insurance was actually made or misrepresent in any other way the particulars of the automobile insurance. 1979, c. 87, s. 6.

Misrepresentations

7.—(1) The Facility Association established as an unincorporated non-profit association of insurers under *The Compulsory Automobile Insurance Act, 1979*, is continued. 1979, c. 87, s. 7 (1), revised.

Facility Association continued

(2) Every insurer is a member of the Association and shall be bound by the articles of association and by-laws of the Association.

Membership

(3) The Association shall, in its articles of association, establish a plan, to be known as the Plan of Operation, for providing a contract of automobile insurance to owners and licensed drivers of motor vehicles who, but for the Plan, would be unable to obtain such insurance.

The Plan

(4) The Association shall ensure, through its members, that a contract of automobile insurance is provided with respect to every application for automobile insurance submitted under the Plan to an insurer under clause 5 (b).

Duty of Association

(5) Where an agent submits an application under the Plan to an insurer, he shall be bound by the applicable articles of association and by-laws of the Association.

Agents bound by articles of association, etc.

(6) For the purposes of Part XVIII of the *Insurance Act*, the Association shall be deemed to be a person engaged in the business of insurance.

Deemed person for purposes of R.S.O. 1980, c. 218, Part XVIII

(7) The Association may, in its name,

Actions by and against Association

(a) be prosecuted for an offence under this Act or Part XVIII of the *Insurance Act*; and

(b) sue and be sued. 1979, c. 87, s. 7 (2-7).

8.—(1) The affairs of the Association shall be administered by a board of directors established in accordance with its articles of association.

Board of directors

Information
to be
provided to
Superintendent

(2) The Association shall notify the Superintendent of the names and residence addresses of the persons elected or appointed as officers and directors of the Association forthwith after such election or appointment, and such names and addresses may be made available to the public by the Superintendent.

Service on
Association

(3) Service on the directors or officers of the Association, or any of them, is good and sufficient service on the Association, and such service may be by personal service or by registered mail.

Idem

(4) Where service on the Association is made by registered mail on a director or officer of the Association under subsection (3), the service shall be deemed to have been made on the fifth day after the day of mailing unless the notice is not delivered or the director or officer to whom notice is given establishes that he did not, acting in good faith, through absence, accident, illness or other cause beyond his control, receive the notice until a later date. 1979, c. 87, s. 8.

By-laws

9.—(1) The Association may pass by-laws relating to its affairs and not inconsistent with this Act or the regulations,

- (a) providing for the execution of documents by the Association;
- (b) respecting banking and finance;
- (c) fixing the financial year of the Association and providing for the audit of the accounts and transactions of the Association;
- (d) providing for the appointment and remuneration of officers and employees of the Association;
- (e) respecting the calling, holding and conducting of meetings of the Association and the duties of members of the Association;
- (f) delegating to an operating committee such powers and duties of the board of directors as are set out in the by-law, other than the power to make, amend or revoke by-laws;
- (g) prescribing forms and providing for their use;
- (h) respecting management of the property of the Association;
- (i) respecting the application of the funds of the Association and the investment and reinvestment of any of its funds not immediately required and for the safekeeping of its securities;

- (j) imposing assessments on members of the Association for the purpose of meeting the operating costs of the Association and the Plan and providing for the collection of such assessments;
- (k) prescribing rules and procedures related to the operation of the Plan; and
- (l) respecting all of the things that are considered necessary for the operation of the Plan, the attainment of the objects of the Association and the efficient conduct of its affairs.

(2) Any power of the Association that may be exercised by by-law under subsection (1) may be provided for in the articles of association of the Association. 1979, c. 87, s. 9.

10.—(1) Every by-law and every amendment, revision or consolidation of the articles of association or by-laws of the Association shall be filed by the Association with the Superintendent at least thirty days prior to the effective date of the by-law or the amendment, revision or consolidation of the articles of association or by-laws.

(2) No by-law and no amendment, revision or consolidation of the articles of association or by-laws of the Association shall come into effect unless they are approved by the Superintendent.

(3) The Association shall prepare and promulgate rates in respect of contracts provided under the Plan and shall file the rates, together with the statistical evidence and any other information relative to the determination of the rates, with the Superintendent at least sixty days prior to the introduction of the rates.

(4) Within sixty days of a filing being made under subsection (3), the Superintendent shall, by order,

(a) approve the rates so filed; or

(b) disallow the rates so filed, where, in the opinion of the Superintendent, the rates are not in accordance with statistical evidence or experience or other justifiable factor.

(5) Where, in the opinion of the Superintendent, any rates filed under subsection (3) are not in accordance with statistical evidence or experience or other justifiable factor, he may, by his order under clause (4) (a), approve the rates subject to such variation as may be prescribed in the order.

- Effective date of an order (6) An order made under this section does not take effect until ten days after the date on which it is served on the Association.
- Appeal (7) The Association may appeal an order made under this section to the Divisional Court.
- Stay (8) Notwithstanding that an appeal is taken under this section, the order appealed from takes effect, but the court may grant a stay until disposition of the appeal.
- Certification of documents (9) The Superintendent shall certify to the registrar of the court,
- (a) the decision of the Superintendent, together with any statement of reasons therefor;
 - (b) the record of any proceedings before the Superintendent; and
 - (c) all written submissions to the Superintendent or other material that is relevant to the appeal.
- Superintendent entitled to be heard (10) The Superintendent is entitled to be heard by counsel or otherwise upon the argument of an appeal under this section.
- Powers of court (11) Where an appeal is taken under this section, the court may by its order direct the Superintendent to make such decision or to do such other act as the Superintendent is authorized and empowered to do under this Act or the regulations and as the court considers proper, having regard to the material and submissions before it and to this Act and the regulations, and the Superintendent shall make such decision or do such act accordingly.
- Further decisions (12) Notwithstanding an order of the court on an appeal, the Superintendent may make any further decision upon new material or where there is a significant change in the circumstances, and every such decision is subject to this section.
- R.S.O. 1980, c. 446 does not apply (13) The *Regulations Act* does not apply to an order of the Superintendent made under this section. 1979, c. 87, s. 10.
- Furnishing of information to Superintendent, annual report **11.** The members of the board of directors and the officers and employees of the Association shall furnish the Superintendent with such information and financial statements with respect to the Association and the Plan as the Superintendent may from time to time require, and the Superintendent shall make an annual report to the Minister of Consumer and Commercial Relations on the affairs of the Association and the Minister shall then lay the report before the Assembly if it is in session or, if not, at the next ensuing session. 1979, c. 87, s. 11.

12.—(1) Where a contract of automobile insurance has been in effect for more than sixty days, the insurer may only terminate the contract under Statutory Condition 8 of section 207 of the *Insurance Act* for one or more of the following reasons:

Termination
of contracts
of insurance
R.S.O. 1980,
c. 218

1. Non-payment of, or any part of, the premium due under the contract or of any charge under any agreement ancillary to the contract.
2. The insured has given false particulars of the described automobile to the prejudice of the insurer.
3. The insured has knowingly misrepresented or failed to disclose in an application for insurance any fact required to be stated therein.
4. For a material change in risk within the meaning of Statutory Condition 1 of the said section 207.

(2) Subsection (1) does not apply to,

Exception

- (a) an insurer running off its business, where the insurer has specific approval of the Superintendent to cancel a contract; or
- (b) a contract in respect of a motor vehicle used in the course of carrying on a business, trade or profession. 1979, c. 87, s. 12.

13.—(1) Every person making an application for the issuance, validation or transfer of a permit for a motor vehicle shall certify, in the form prescribed by the regulations, that the motor vehicle is insured under a contract of automobile insurance and the Registrar, notwithstanding subsection 7 (3) of the *Highway Traffic Act*, shall not issue, validate or transfer the permit for the motor vehicle, where such certificate of insurance is not provided to the Registrar.

Certificate
of insurance

R.S.O. 1980,
c. 198

(2) No person shall knowingly make a false statement in the certificate of insurance required under subsection (1). 1979, c. 87, s. 13.

Offence for
false
statement

14.—(1) Except where otherwise provided, every person and every director or officer of an insurer who commits an act contrary to, or fails or neglects to comply with, any provision of this Act or the regulations is guilty of an offence and on conviction is liable to a fine of not more than \$2,500.

General
penalty

(2) Where an insurer is convicted of an offence under subsection (1), the minimum penalty that may be imposed upon the insurer is \$5,000 and the maximum penalty that may be imposed upon the insurer is \$50,000 and not as provided therein.

Contravention
by insurer

Suspension
or
cancellation
of licence
of insurer

R.S.O. 1980,
c. 218

(3) In addition to any penalty imposed under this Act, where an insurer contravenes this Act or the regulations, the Lieutenant Governor in Council may, by order and upon the report of the Superintendent, suspend or cancel the licence of the insurer issued under the *Insurance Act*.

Contravention
by
Association

(4) Where the Association commits an act contrary to, or fails or neglects to comply with, any provision of this Act or the regulations, it is guilty of an offence and on conviction is liable to a fine of not less than \$5,000 and not more than \$50,000. 1979, c. 87, s. 14.

Regulations

15. The Lieutenant Governor in Council may make regulations,

- (a) exempting any person or group of persons from the provisions of this Act, subject to such conditions as are set out in the regulations;
- (b) prescribing identifying markers for all automobiles licensed in Ontario and providing for their use;
- (c) prescribing documents that may be accepted as evidence of the existence of a contract of automobile insurance in lieu of a Motor Vehicle Liability Insurance Card, policy of automobile insurance or certificate of a policy;
- (d) prescribing the type of statistical evidence and other information to be filed in support of rates under subsection 10 (3); and
- (e) prescribing forms and providing for their use. 1979, c. 87, s. 15.

CHAPTER 84

Condominium Act

1.—(1) In this Act,

Interpre-
tation

- (a) “auditor” means a person licensed as a public accountant under the *Public Accountancy Act*; R.S.O. 1980,
c. 405
- (b) “board” means the board of directors of a corporation;
- (c) “buildings” means the buildings included in a property;
- (d) “bureau” means the corporation designated under section 56;
- (e) “by-law” means a by-law of a corporation;
- (f) “claim” includes a right, title, interest, encumbrance, or demand of any kind affecting land, but does not include the interest of an owner in his unit and common interest;
- (g) “common elements” means all the property except the units;
- (h) “common expenses” means the expenses of the performance of the objects and duties of a corporation and any expenses specified as common expenses in this Act or in a declaration;
- (i) “common interest” means the interest in the common elements appurtenant to a unit;
- (j) “common surplus” means the excess of all receipts of the corporation over the expenses;
- (k) “corporation” means a corporation created by this Act;

- (l) "declarant" means the owner or owners in fee simple of the land described in the description at the time of registration of a declaration and description of the land, and includes any successor or assignee of such owner or owners but does not include a *bona fide* purchaser of a unit who actually pays fair market value or any successor or assignee of such purchaser;
- (m) "declaration" means the declaration specified in section 3, and includes any amendments;
- (n) "description" means the description specified in section 4;
- (o) "encumbrance" means a claim that secures the payment of money or the performance of any other obligation, and includes a charge under the *Land Titles Act*, a mortgage and a lien;
- (p) "mortgage" includes charge and "mortgagee" includes chargee;
- (q) "owner" means the owner or owners of the freehold estate or estates in a unit and common interest, but does not include a mortgagee unless in possession;
- (r) "prescribed" means prescribed by the regulations;
- (s) "property" means the land and interests appurtenant to the land described in the description, and includes any land and interests appurtenant to land that are added to the common elements;
- (t) "proposed unit" means land described in an agreement of purchase and sale that provides for delivery to the purchaser of a deed or transfer capable of registration after a declaration and description have been registered in respect of the land;
- (u) "records" includes those items enumerated in subsection 26 (3) and financial records prepared on behalf of the corporation, minutes of owners' meetings and board meetings, as well as any amendments to the declaration, by-laws and rules;

(v) "registered" means registered under the *Land Titles Act* or the *Registry Act*; R.S.O. 1980,
cc. 230, 445

(w) "regulations" means the regulations made under this Act;

(x) "special by-law" means a by-law that is not effective until it is,

(i) passed by the board, and

(ii) confirmed, with or without variation, by owners who own not less than two-thirds of the units at a meeting duly called for that purpose;

(y) "surveyor" means an Ontario land surveyor registered under the *Surveyors Act*; R.S.O. 1980,
c. 492

(z) "unit" means a part or parts of the land included in the description and designated as a unit by the description, and comprises the space enclosed by its boundaries and all the material parts of the land within this space in accordance with the declaration and description.

(2) For the purposes of this Act, the ownership of land includes the ownership of space. 1978, c. 84, s. 1. Ownership
of land

DECLARATION AND DESCRIPTION

2.—(1) A property shall comprise only freehold land and interests, if any, appurtenant to that land. Freehold
land only

(2) A declaration and description may be registered by or on behalf of the owner in fee simple of the land described in the description. Who may
register

(3) Where the land and the interests appurtenant to the land described in the description are not entirely within one land titles or registry division or not entirely under the *Land Titles Act* or the *Registry Act*, the description shall not be registered. 1978, c. 84, s. 2 (1-3). Land must
be in one
division

Effect of
registration

(4) Upon registration of a declaration and description, the land and the interests appurtenant to the land described in the description are governed by this Act. 1978, c. 84, s. 2 (6).

What
declaration
must contain

3.—(1) A declaration shall not be registered unless it is executed by the owner or owners of the land and interests appurtenant to the land described in the description and unless it contains,

- (a) a statement of intention that the land and interests appurtenant to the land described in the description be governed by this Act;
- (b) the consent, in the prescribed form, of every person having a registered mortgage against the land or interests appurtenant to the land described in the description;
- (c) a statement, expressed in percentages, of the proportions of the common interests;
- (d) a statement, expressed in percentages allocated to the units, of the proportions in which the owners are to contribute to the common expenses;
- (e) an address for service and a mailing address for the corporation; and
- (f) a specification of any parts of the common elements that are to be used by the owners of one or more designated units and not by all the owners.

Where consent
not to be
withheld

(2) The consent mentioned in clause (1) (b) shall not be withheld by reason only of the failure of the proposed declarant to enter into a specified number of agreements of purchase and sale for the sale of proposed units.

What
declaration
may contain

(3) In addition to the matters mentioned in subsection (1), and in any other section in this Act, a declaration may contain,

- (a) a specification of common expenses;
- (b) provisions respecting the occupation and use of the units and common elements;

- (c) provisions restricting gifts, leases and sales of the units and common interests;
- (d) a specification of duties of the corporation consistent with its objects; and
- (e) a specification of any allocation of the obligations to repair and to maintain the units and common elements.

(4) Subject to subsection (5), the declaration may be amended only with the consent of all owners and all persons having registered mortgages against the units and common interests.

(5) Where any provision in a declaration or by-law is inconsistent with the provisions of this Act, the provisions of this Act shall prevail and the declaration or by-law is deemed to be amended accordingly.

(6) When a declaration is amended, the corporation shall register a copy of the amendment executed by all the owners and all persons having registered mortgages against the units and common interests, and until the copy is registered the amendment is ineffective.

(7) Notwithstanding subsections (4) and (6), the corporation may by resolution of the board change its address for service and its mailing address and the change does not take effect until a notice thereof in the prescribed form is registered.

(8) The corporation, on at least seven days notice to every owner and mortgagee, or an owner, on at least seven days notice to the corporation and every other owner and mortgagee, may apply to a judge of the county or district court for an order amending the declaration or description and the judge, if he is satisfied that an amendment is necessary or desirable to correct an error or inconsistency in the declaration or description or arising out of the carrying out of the intent and purpose of the declaration or description, may make the order.

(9) An amendment to a declaration or description made by an order under subsection (8) is ineffective until a certified copy of the order is registered. 1978, c. 84, s. 3.

4.—(1) A description shall contain,

What
description
must contain

- (a) a plan of survey showing the perimeter of the horizontal surface of the land and the perimeter of the buildings;
- (b) structural plans of the buildings;
- (c) a specification of the boundaries of each unit by reference to the buildings;
- (d) diagrams showing the shape and dimensions of each unit and the approximate location of each unit in relation to the other units and the buildings;
- (e) a certificate of a surveyor that the buildings have been constructed and that the diagrams of the units are substantially accurate and substantially in accordance with the structural plans; and
- (f) a description of any interests appurtenant to the land that are included in the property,

prepared in accordance with the regulations.

Approval of
description

- (2) A description shall not be registered unless it has been approved in accordance with the regulations. 1978, c. 84, s. 4.

REGISTRATION

Index

- 5.**—(1) Every land registrar in whose office a declaration and description are registered shall keep an index in the prescribed form to be known as the “Condominium Corporations Index”.

Combined
offices

- (2) Where a land titles office is combined with a registry office, one index under subsection (1) shall be kept for all declarations and descriptions registered in the combined offices.

Condominium
Register

- (3) Every land registrar in whose office a declaration and description are registered shall keep a register in the prescribed form to be known as the “Condominium Register”.

This Act
to govern
registrations,
etc.

- (4) Declarations, descriptions, by-laws, notices of termination, and other instruments respecting land governed by

this Act shall be registered and recorded in the Condominium Register in accordance with this Act and the regulations, but, except as otherwise provided by this Act and the regulations, the *Land Titles Act* or the *Registry Act*, as the case may be, applies in respect of property governed by this Act. 1978, c. 84, s. 5. R.S.O. 1980, cc. 230, 445

UNITS AND COMMON ELEMENTS

6.—(1) Units and common interests are real property for all purposes. Nature of units and common interests

(2) Subject to this Act, the declaration and the by-laws, each owner is entitled to exclusive ownership and use of his unit. Ownership of units

(3) No condition shall be permitted to exist and no activity shall be carried on in any unit or the common elements that are likely to damage the property. Dangerous activities

(4) The corporation or any person authorized by the corporation may enter any unit at any reasonable time to perform the objects and duties of the corporation. 1978, c. 84, s. 6. Right to entry

7.—(1) The owners are tenants in common of the common elements. Ownership of common elements

(2) An undivided interest in the common elements is appurtenant to each unit. Common interests

(3) The proportions of the common interests are those expressed in the declaration. Proportions

(4) Each owner may make reasonable use of the common elements subject to this Act, the declaration, the by-laws and the rules. Use of common elements

(5) The ownership of a unit shall not be separated from the ownership of the common interest, and any instrument that purports to separate the ownership of a unit from a common interest is void. Ownership not to be separated

(6) Except as provided by this Act, the common elements shall not be partitioned or divided. No division

Encum-
brances not
enforceable

(7) No encumbrance is enforceable against the common elements after the declaration and description are registered.

Saving

(8) Where, but for subsection (7), an encumbrance would be enforceable against the common elements, the encumbrance is enforceable against all the units and common interests.

Discharge

(9) Any unit and common interest may be discharged from such an encumbrance by payment to the claimant of a portion of the sum claimed, determined by the proportions specified in the declaration for sharing the common interests.

Idem

(10) Upon payment of a portion of the encumbrance sufficient to discharge a unit and common interest, and upon demand, the claimant shall give to the owner a discharge of that unit and common interest in accordance with the regulations.

Assessment

(11) For the purposes of municipal assessment and taxation, each unit and common interest constitute a parcel, and the common elements do not constitute a parcel except for those parts of the common elements that are leased for business purposes under section 9 upon which the lessee carries on an undertaking for gain that will constitute separate parcels for business assessment under the *Assessment Act*.

R.S.O. 1980,
c. 31

Where
corporation
deemed to
be occupier

(12) For the purpose of determining liability resulting from breach of the duties of an occupier of land, the corporation shall be deemed to be the occupier of the common elements and the owners shall be deemed not to be occupiers of the common elements. 1978, c. 84, s. 7.

EASEMENTS

Easements
appurtenant
to units

8.—(1) The following easements are appurtenant to each unit:

1. Where a building or any part of a building,

(a) moves after registration of the declaration and description; or

(b) after having been damaged and repaired, is not restored to the position occupied at the time of registration of the declaration and description,

an easement for exclusive use and occupation in accordance with this Act, the declaration and the by-laws, over the space of the other units and common elements that would be space included in the unit if the boundaries of the unit were determined by the position of the buildings from time to time after registration of the description and not at the time of registration.

2. An easement for the provision of any service through any installation in the common elements or any other unit.
3. An easement for support by the common elements and any other unit capable of providing support.

(2) The following easements are appurtenant to the common elements: Easements appurtenant to common elements

1. An easement for the provision of any service through any installation in any unit.
2. An easement for support by any unit capable of providing support. 1978, c. 84, s. 8.

9.—(1) The corporation may, by special by-law,

Easements and leases of common elements

- (a) lease any part of the common elements, except any part that the declaration specifies is to be used by the owners of one or more designated units and not by all the owners; and
- (b) grant or transfer an easement or licence through the common elements.

(2) A lease or grant or transfer or an easement or licence mentioned in subsection (1), signed by the authorized officers of the corporation under its seal, affects the interest of every owner in the common elements as if the lease, grant or transfer had been executed by him, and shall have attached thereto an affidavit of one of the officers stating that the lease, grant or transfer was authorized by a special by-law of the corporation. 1978, c. 84, s. 9.

Binding on all owners

CORPORATION

10.—(1) The registration of a declaration and description Creation creates a corporation without share capital whose members are the owners from time to time.

Name of corporation	(2) The land registrar shall assign a name to each corporation or proposed corporation in accordance with the regulations.
R.S.O. 1980, cc. 95, 96, 297 not to apply	(3) The <i>Corporations Act</i> , the <i>Corporations Information Act</i> and the provisions respecting mortmain of the <i>Mortmain and Charitable Uses Act</i> do not apply to the corporation. 1978, c. 84, s. 10.
Corporation seal	11. —(1) The corporation shall have a seal that shall be adopted and may be changed by resolution of the directors.
Idem	(2) The name of the corporation shall appear in legible characters on the seal. 1978, c. 84, s. 11.
Objects	12. —(1) The objects of the corporation are to manage the property and any assets of the corporation.
Corporation duty	(2) The corporation has a duty to control, manage and administer the common elements and the assets of the condominium corporation.
Duty to effect compliance	(3) The corporation has a duty to effect compliance by the owners with this Act, the declaration, the by-laws and the rules.
Duties	(4) The declaration or the by-laws may specify duties of the corporation consistent with its objects, responsibilities and duties.
Right to performance of duties	(5) Each owner and each person having a registered mortgage against a unit and common interest has the right to the performance of any duty of the corporation specified by this Act, the declaration, the by-laws and the rules. 1978, c. 84, s. 12.
Real and personal property	13. —(1) The corporation may own, acquire, encumber and dispose of real and personal property for the use and enjoyment of the property.
Interest in assets	(2) The owners share the assets of the corporation in the same proportions as the proportions of their common interests in accordance with this Act, the declaration and the by-laws. 1978, c. 84, s. 13.
Action by corporation	14. —(1) The corporation after giving written notice to all owners and mortgagees may, on its own behalf and on behalf of any owner, sue for and recover damages and costs

in respect of any damage to common elements, the assets of the corporation or individual units, and the legal and court costs in any such actions brought in whole or in part on behalf of any owners in respect of their units shall be borne by those owners in the proportion in which their interests are affected.

(2) The corporation after giving written notice to all owners and mortgagees may sue on its own behalf and on behalf of any owner with respect to the common elements and any units, notwithstanding that the corporation was not a party to the contract in respect of which the action is brought, and the legal and court costs in an action brought in whole or in part on behalf of any owners in respect of their units shall be borne by those owners in the proportion in which their interests are affected. Idem

(3) The notice referred to in subsections (1) and (2) is not required to be given in respect of an action brought in the small claims court. Idem

(4) Any judgment for payment in favour of the corporation in an action brought on its own behalf is an asset of the corporation. Idem

(5) The corporation may, as representative of the owners of the units, be sued in respect of any matter relating to the common elements or assets of the corporation. Corporation may be sued

(6) Where an action is commenced on or after the 1st day of June, 1979, a judgment for the payment of money against the corporation is also a judgment against each owner at the time of judgment for a portion of the judgment determined by the proportions specified in the declaration for sharing the common interests. Judgment against corporation

(7) Where an action has been commenced before the 1st day of June, 1979, a judgment for the payment of money against the corporation is also a judgment against each owner at the time the cause of action arose for a portion of the judgment determined by the proportions specified in the declaration for sharing the common expenses. 1978, c. 84, s. 14. Idem

15.—(1) The affairs of the corporation shall be managed by a board of directors, consisting of three persons or such greater number as the by-laws may provide, elected by the owners. Board of directors

Change in
number of
directors

(2) A corporation may by by-law increase or, subject to subsection (1), decrease the number of the directors as set out in its by-laws.

Age of
directors

(3) No person under eighteen years of age shall be a director of the corporation.

Qualifications

(4) No undischarged bankrupt or mentally incompetent person shall be a director and if a director becomes a bankrupt or a mentally incompetent person he thereupon ceases to be a director.

Consent

(5) A person who is elected or appointed a director is not a director unless,

(a) he was present at the meeting when he was elected or appointed and did not refuse at the meeting to act as a director; or

(b) when he was not present at the meeting when he was elected or appointed, he consented to act as director in writing before his election or appointment or within ten days thereafter.

Idem

(6) For the purposes of subsection (5), a person who is elected or appointed as director and refuses under clause (a) of that subsection or fails to consent under clause (b) of that subsection shall be deemed not to have been elected or appointed as a director.

Term

(7) The term of the members of the board shall be three years or such lesser period as the by-laws may provide, but the directors may continue to act until their successors are elected, and directors are eligible for re-election.

Removal

(8) Any director may be removed before the expiration of his term by a vote of owners who together own a majority of the units and the owners may elect, in accordance with the by-laws dealing with the election of directors, any person qualified to be a member of the board for the remainder of the term of the director removed.

Vacancy

(9) If a vacancy in the membership of the board occurs, other than by way of removal under subsection (8) or as a result of the number of directors being increased, subject to subsection (11), the majority of the remaining members of the board may appoint any person qualified to be a member of the board to fill the vacancy until the next annual meeting at which time the vacancy shall be filled by election by the owners.

(10) Where the number of directors is increased, the vacancies resulting from such increase shall only be filled by election at a meeting of the owners duly called for that purpose. Increase

(11) When there is not a quorum of directors in office, the director or directors then in office shall forthwith call a meeting of owners to fill the vacancies, and, in default or if there are no directors then in office, the meeting may be called by any owner. 1978, c. 84, s. 15. Election when no quorum

16.—(1) A quorum for the transaction of business is a majority of the members of the board or such greater number as the by-laws may provide. Quorum

(2) No business of a corporation shall be transacted by its board except at a meeting of directors at which a quorum of the board is present. Conduct of business

(3) Where there is a vacancy or vacancies in the board, the remaining directors may exercise all the powers of the board so long as a quorum of the board remains in office. Idem

(4) In addition to any other provision in the by-laws of a corporation for calling meetings of directors, a quorum of the directors may, at any time, call a meeting of the directors for the transaction of any business, the general nature of which is specified in the notice calling the meeting. Calling meetings of directors

(5) In the absence of any other provision in that behalf in the by-laws of the corporation, at least ten days written notice of the time and place for the holding of the meeting shall be given to every director of the corporation, personally or by prepaid mail, addressed to him at his latest address as shown on the records of the corporation. 1978, c. 84, s. 16. Notice

17.—(1) Every director of a corporation who has, directly or indirectly, any interest in any contract or transaction to which the corporation is or is to be a party, other than a contract or transaction in which his interest is limited solely to his remuneration as a director, officer or employee, shall declare his interest in such contract or transaction at a meeting of the directors of the corporation and shall at that time disclose the nature and extent of such interest including, as to any contract or transaction involving the purchase or sale of property by or to the corporation, the cost of the property to the purchaser and the cost thereof to the seller, if acquired by the seller within five years before the date of the contract or transaction, to the extent Disclosure by director of interest in contracts

to which such interest or information is within his knowledge or control, and shall not vote and shall not in respect of such contract or transaction be counted in the quorum.

Interest
to be
material

(2) Subsection (1) does not require the disclosure of any interest in any contract or transaction unless the interest and the contract or transaction are both material.

When
declaration
of interest
to be made

(3) The declaration required in subsection (1) shall be made at the meeting of the directors at which the proposed contract or transaction is first considered, or if the director is not at the date of the meeting interested in the proposed contract or transaction, at the next meeting of the directors held after he becomes so interested, or if the director becomes interested in a contract or transaction after it is entered into, at the first meeting of the directors held after he becomes so interested, or if a contract or a proposed contract or transaction is one that in the ordinary course of the corporation's business would not require approval by the directors or owners, at the first meeting of the directors held after the director becomes aware of it.

Effect of
declaration

(4) If a director has made a declaration and disclosure of his interest in a contract or transaction in compliance with this section and has not voted in respect of the contract or transaction at the meeting of the directors of the corporation, the director, if he was acting honestly and in good faith at the time the contract or transaction was entered into, is not by reason only of his holding the office of director accountable to the corporation or to its owners for any profit or gain realized from the contract or transaction, and the contract or transaction is not voidable by reason only of the director's interest therein.

Confirmation
by owners

(5) Notwithstanding anything in this section, a director, if he was acting honestly and in good faith, is not accountable to the corporation or to the owners for any profit or gain realized from any such contract or transaction by reason only of his holding the office of director, and the contract or transaction is not by reason only of the director's interest therein voidable,

(a) if the contract or transaction is confirmed or approved by at least two-thirds of the votes cast at a meeting of the owners duly called for that purpose; and

(b) if the nature and extent of the director's interest in the contract or transaction are declared and disclosed in reasonable detail in the notice calling the meeting.

(6) For the purposes of this section, a general notice to the directors by a director declaring that he is a director or officer of or has a material interest in a person that is a party to a contract or proposed contract with the corporation is a sufficient declaration of interest in relation to any contract so made. 1978, c. 84, s. 17. ^{General notice of interest}

18.—(1) A corporation shall hold an annual meeting of the owners not more than three months after the registration of the declaration and description, and subsequently not more than fifteen months after the holding of the last preceding annual meeting, and at such meeting any owner or any mortgagee entitled to vote shall have an opportunity to raise any matter relevant to the affairs and business of the corporation. ^{Annual meetings}

(2) The board, or any mortgagee holding mortgages on not less than 15 per cent of the units, may at any time call a meeting of the owners of the corporation for the transaction of any business, the nature of which shall be specified in the notice calling the meeting. ^{Other meetings}

(3) Unless otherwise provided in this Act, a quorum for the transaction of business at a meeting of owners is those owners present in person or represented by proxy owning $33\frac{1}{3}$ per cent of the units. 1978, c. 84, s. 18. ^{Quorum}

19.—(1) The board shall, upon receipt of a requisition in writing made by owners who together own at least 15 per cent of the units, call and hold a meeting of the owners and if the meeting is not called and held within thirty days of the receipt of the requisition, any of the requisitionists may call the meeting, and in such case, the meeting shall be held within sixty days of receipt of the requisition. ^{Requisition for owners' meeting}

(2) The requisition shall state the nature of the business to be presented at the meeting and shall be signed by the requisitionists and deposited at the address for service of the corporation. 1978, c. 84, s. 19. ^{Requisition}

20.—(1) At least ten days written notice of every meeting of the owners specifying the place, the date and the hour thereof and the nature of the business to be presented shall be given to each owner or mortgagee entitled to vote, personally or by prepaid mail addressed to him at the address provided under subsection (2). ^{Notice}

(2) The corporation shall maintain a record upon which shall be entered each owner or mortgagee who notifies the corporation of his entitlement to vote and of his address for service, and the notice of a meeting required by subsection (1) ^{Sufficient notice}

shall be deemed to be sufficiently given if given in accordance with subsection (1) to those persons entered on the record twelve days before the date of the meeting.

Right to
vote

(3) A mortgagee who receives a notice shall, in order to be entitled to exercise the right of the owner to vote or to consent, notify the corporation and the owner of his intention to exercise such right at least two days before the date specified in the notice for the meeting. 1978, c. 84, s. 20.

Records

21. The corporation shall keep adequate records, and any owner or his agent duly authorized in writing may inspect the records on reasonable notice and at any reasonable time. 1978, c. 84, s. 21.

Voting

22.—(1) All voting by owners shall be on the basis of one vote per unit and, where two or more persons entitled to vote in respect of one unit disagree on their vote, the vote in respect of that unit shall not be counted.

Idem

(2) On a show of hands or on a poll, votes may be given either personally or by proxy.

Proxy

(3) An instrument appointing a proxy shall be in writing under the hand of the appointer or his attorney, and may be either general or for a particular meeting.

Idem

(4) A proxy need not be an owner.

Where not
entitled
to vote

(5) Except where, under this Act or the by-laws of the corporation, a unanimous vote of all the owners is required, an owner is not entitled to vote at any meeting if any contributions payable in respect of his unit are in arrears for more than thirty days prior to the meeting.

Majority
voting

(6) Unless otherwise provided in this Act, all questions proposed for the consideration of the owners at a meeting of owners shall be determined by a majority of the votes cast.

No vote
for parking
or storage
unit

(7) No owner is entitled to a vote in respect of a unit that is intended for parking or storage purposes. 1978, c. 84, s. 22.

Officers

23.—(1) A corporation shall have a president and a secretary and such other officers as are provided for by by-law or by resolution of the directors and the same person may hold two or more offices.

(2) In the absence of other provisions in that behalf in the by-laws, the directors, Election and appointment

(a) shall elect the president from among themselves;

(b) shall appoint or elect the secretary; and

(c) may appoint or elect one or more vice-presidents or other officers. 1978, c. 84, s. 23.

24.—(1) Every director and officer of a corporation shall exercise the powers and discharge the duties of his office honestly and in good faith. Standards of care, etc., of directors

(2) The acts of a member of the board or an officer of the board are valid notwithstanding any defect that may afterwards be discovered in his election or qualifications. 1978, c. 84, s. 24. Defects

25.—(1) Subject to subsection (2), the by-laws of a corporation may provide that every director and officer of the corporation and his heirs, executors, administrators and other legal personal representatives may from time to time be indemnified and saved harmless by the corporation from and against, Indemnification of directors

(a) any liability and all costs, charges and expenses that he sustains or incurs in respect of any action, suit or proceeding that is proposed or commenced against him for or in respect of anything done or permitted by him in respect of the execution of the duties of his office; and

(b) all other costs, charges and expenses that he sustains or incurs in respect of the affairs of the corporation.

(2) No director or officer of a corporation shall be indemnified by the corporation in respect of any liability, costs, charges or expenses that he sustains or incurs in or about any action, suit or other proceeding as a result of which he is adjudged to be in breach of any duty or responsibility imposed upon him under this Act or under any other statute unless, in an action brought against him in his capacity as director or officer, he has achieved complete or substantial success as a defendant. Idem

(3) A corporation may purchase and maintain insurance for the benefit of a director or officer thereof except insurance against a liability, cost, charge or expense of the director or Insurance

officer incurred as a result of a contravention of subsection 24 (1). 1978, c. 84, s. 25.

Election
of new
board

26.—(1) The board elected at a time when the declarant owns a majority of the units shall, not more than twenty-one days after the declarant ceases to be the registered owner of a majority of the units, call a meeting of the owners to elect a new board, and such meeting shall be held within twenty-one days after the calling of the meeting.

Owner,
etc., may
call
meeting

(2) If the meeting referred to in subsection (1) is not called within the time provided for by that subsection, any owner or any mortgagee entitled to vote may call the meeting.

Things to
be turned
over to
the board

(3) At the meeting required under subsection (1), the declarant shall give to the board elected at that meeting,

- (a) the seal of the corporation;
- (b) the minute book for the corporation, containing the most current copies of the declaration, by-laws, rules and regulations and any amendments thereto;
- (c) copies of all agreements entered into by the corporation or the declarant or his representatives on behalf of the corporation, including the management contracts, deeds, leases, licences and those items set out in subsection 52 (6);
- (d) a record maintained under subsection 20 (2);
- (e) the existing warranties and guarantees for all the equipment, fixtures and chattels included in the sale of either the units or common elements that are not protected by warranties and guarantees given directly to a unit purchaser;
- (f) the as-built architectural, structural, engineering, mechanical, electrical and plumbing plans;
- (g) the original specifications indicating thereon all material changes;
- (h) the plans for underground site service, site grading, drainage and landscaping together with cable television drawings if available;
- (i) such other available plans and information not mentioned in clause (f), (g), or (h) but relevant to future repair or maintenance of the property;

- (j) an unaudited financial statement prepared as at a date not earlier than thirty days prior to the meeting;
- (k) a table depicting the maintenance responsibilities and indicating whether the corporation or the unit owners are responsible;
- (l) bills of sale or transfers for all items that are assets of the condominium corporation but not part of the real property;
- (m) a list detailing current replacement costs and life expectancy under normal maintenance conditions of all major capital items in the property, including, where applicable, those items set out in subsection 36 (1); and
- (n) all financial records of the corporation and of the declarant relating to the operation of the corporation from the date of registration of the declaration and the description.

(4) The declarant shall give to the board within sixty ^{Idem} days after the meeting required under subsection (1) an audited financial statement prepared as at the date of the meeting required under subsection (1). 1978, c. 84, s. 26.

27.—(1) The corporation shall obtain and maintain in- ^{Corporation shall maintain insurance} surance on its own behalf and on behalf of the owners of the units and common elements, excluding improvements and betterments made or acquired by an owner, against major perils to the replacement cost thereof, and against such other perils as may be specified by the declaration or by-laws, and for this purpose the corporation shall be deemed to have an insurable interest in the units and common elements.

(2) Any payment by an insurer under a policy of ^{Payment of insurance} insurance entered into under subsection (1) shall, notwithstanding the terms of the policy, be paid to the order of insurance trustees, if any, or otherwise shall be paid to or to the order of the corporation and, subject to subsection 42 (2), the corporation shall forthwith use the proceeds for the repair or replacement of the damaged units and common elements so far as the same may be effected lawfully.

(3) Insurance obtained and maintained by a corporation under subsection (1) shall be deemed not to be other insurance ^{Insurance under subs. (1) not other insurance} for the purpose of any prohibition of or condition against other insurance in a policy of an owner insuring against loss of or damage to his unit or his interest in the common ele-

ments and covering only to the extent that the insurance placed by the corporation is inapplicable, inadequate or ineffective.

Insurance
non-
contributory
R.S.O. 1980,
c. 218

(4) Notwithstanding section 127 of the *Insurance Act* or the provisions of the policy, a policy of insurance issued under subsection (1) and any other policy of insurance, except another policy issued under subsection (1), are not liable to be brought into contribution with each other.

Liability
insurance

(5) The corporation shall obtain and maintain insurance against its liability resulting from breach of duty as occupier of the common elements or arising from the ownership, use or operation, by or on its behalf, of boilers, machinery, pressure vessels and motor vehicles, in addition to such other insurance as may be specified in the declaration or by-laws.

Act of
person does
not breach
policy

(6) Notwithstanding the terms of a policy issued under subsection (1), no act of any person shall be deemed to be a breach of the conditions of the policy where such act is prejudicial to the interests of the corporation or the owners.

Provision
for notice

(7) A policy of insurance issued under subsection (1) shall be deemed to include provision for sixty days notice sent by registered mail to be given by the insurer to the corporation and to the insurance trustees, if any, in the event of termination of the insurance by the insurer.

Application
of section

(8) In the event that any provision of a policy issued under subsection (1) or any part of the *Insurance Act* is in conflict or inconsistent with this section or any part thereof, the provisions of this section shall apply.

Capacity to
maintain
insurance

(9) Nothing in this section shall be construed to restrict the capacity of a corporation, an owner or any other person to obtain and maintain insurance in respect of any insurable interest.

Insurance
money to be
used for
repairs
R.S.O. 1980,
c. 296

(10) Notwithstanding any provision in a mortgage and notwithstanding subsection 6 (2) of the *Mortgages Act*, a mortgagee shall not require that any money received on an insurance of the property or any part thereof be applied in or towards the discharge of the money due under his mortgage and any such requirement is void.

Interpre-
tation

(11) For the purposes of subsection (1), "major perils" means the perils of fire, lightning, smoke, windstorm, hail, explosion, water escape, strikes, riots or civil commotion, impact by aircraft and vehicles, vandalism and malicious mischief. 1978, c. 84, s. 27.

BY-LAWS AND RESOLUTIONS

28.—(1) The board may pass by-laws, not contrary to ^{By-laws} this Act or to the declaration,

- (a) to govern the number, qualification, nomination, election, term of office and remuneration of the directors;
- (b) to regulate the meeting, quorum and functions of the board;
- (c) to govern the appointment, remuneration, functions, duties and removal of agents, officers and employees of the corporation and the security, if any, to be given by them to it;
- (d) to govern the management of the property;
- (e) to govern the maintenance of the units and common elements;
- (f) to govern the use and management of the assets of the corporation;
- (g) specifying duties of the corporation;
- (h) to govern the assessment and collection of contributions towards the common expenses;
- (i) authorizing the borrowing of money to carry out the objects and duties of the corporation; and
- (j) respecting the conduct generally of the affairs of the corporation.

(2) Subject to subsection (5), a by-law passed under sub- ^{Confirmation} section (1) is not effective until it is confirmed, with or without variation, by owners who own not less than 51 per cent of the units at a meeting duly called for that purpose.

(3) A by-law relating to the remuneration of a director ^{Remuneration of} or directors shall fix the remuneration and the period for ^{directors} which it is to be paid.

(4) The by-laws shall be reasonable and consistent with ^{By-laws must be} this Act and the declaration. ^{reasonable}

- Registration (5) When a by-law or special by-law is made by the corporation, the corporation shall register a copy of the by-law or special by-law together with a certificate executed by the corporation that the by-law was made in accordance with this Act, the declaration and the by-laws, and until the copy and certificate are registered the by-law is ineffective. 1978, c. 84, s. 28.

RULES GOVERNING USE OF COMMON ELEMENTS

- House rules **29.**—(1) The board may make rules respecting the use of common elements and units or any of them to promote the safety, security or welfare of the owners and of the property or for the purpose of preventing unreasonable interference with the use and enjoyment of the common elements and of other units.
- Idem (2) The rules shall be reasonable and consistent with this Act, the declaration and the by-laws.
- Compliance and enforcement (3) The rules shall be complied with and enforced in the same manner as the by-laws.
- When rules effective (4) Subject to subsection (5), any rule made under subsection (1) shall be effective thirty days after notice thereof has been given to each owner unless the board is in receipt of a requisition in writing made under section 19 requiring a meeting of owners to consider the rules.
- Idem (5) If a meeting of owners is required, the rule made under subsection (1) shall become effective only upon approval at such meeting of owners.
- Owners amending or repealing rules (6) The owners may at any time after a rule becomes effective amend or repeal a rule at a meeting of owners duly called for that purpose. 1978, c. 84, s. 29.
- Entry by canvassers **30.** No corporation or servant or agent of a corporation shall restrict reasonable access to the property by candidates, or their authorized representatives, for election to the House of Commons, the Legislative Assembly or any office in a municipal government or school board for the purpose of canvassing or distributing election material. 1978, c. 84, s. 30.

OBLIGATION OF OWNERS AND OCCUPIERS

- Obligations and rights of owners, etc. **31.**—(1) Each owner is bound by and shall comply with this Act, the declaration, the by-laws and the rules.

(2) Each owner has a right to the compliance by the other owners with this Act, the declaration, the by-laws and the rules. Idem

(3) The corporation, and every person having an encumbrance against any unit and common interest, has a right to the compliance by the owners with this Act, the declaration, the by-laws and the rules. Right of corporation and encumbrancers

(4) Each person in occupation of a proposed unit is bound by and shall comply with the rules proposed by the proposed declarant where those rules are reasonable and consistent with this Act. Obligations and rights of occupiers

(5) Each person in occupation of a proposed unit has a right to the compliance by every other occupant of a proposed unit with the rules proposed by the proposed declarant. Idem

(6) The proposed declarant has a duty, until registration of the declaration and description, to effect compliance by occupiers of proposed units with the rules proposed by the declarant. 1978, c. 84, s. 31. Duty of proposed declarant

32.—(1) The owners shall contribute towards the common expenses in the proportions specified in the declaration. Duty of owners to contribute to common expenses

(2) Any common surplus in a corporation shall be applied either against future common expenses or paid into the reserve fund, but shall not, other than on termination, be distributed to the owners or mortgagees. Application of common surplus

(3) The obligation of an owner to contribute towards the common expenses shall not be avoided by waiver of the right to use the common elements or by abandonment. No avoidance

(4) Where an owner defaults in his obligation to contribute to the corporation towards the common expenses as provided under subsection (1) or subsection 41 (7), the corporation has a lien for the unpaid amount against his unit and its appurtenant common interest together with all reasonable costs, charges and expenses incurred by the corporation in connection with the collection or attempted collections of the unpaid amount. Lien

(5) The lien mentioned in subsection (4) expires three months after the default that gave rise to the lien first occurred unless the corporation within that time registers a notice of lien in the prescribed form, and, where the notice is Expiration of lien

registered in accordance with subsection 33 (5), no further notice or registration is required in respect of default in payment occurring or continuing after registration.

Lien
enforcement

(6) The lien may be enforced in the same manner as a mortgage.

Discharge

(7) Upon payment of the unpaid amount together with all reasonable costs, charges and expenses incurred by the corporation in connection with the collection or attempted collection of the unpaid amount, and upon demand, the corporation shall give the owner a discharge in the prescribed form.

Certificate
of lien

(8) Any person acquiring or proposing to acquire an interest in a unit from an owner may request the corporation to give a certificate in the prescribed form in respect of the common expenses of the owner and of default in payment thereof, if any, by the owner, together with such statements and information as are prescribed by the regulations, and the certificate binds the corporation as against the person requesting the certificate in respect of any default or otherwise shown in the certificate, as of the day it is given.

Idem

(9) The corporation shall give the certificate and the statements and information referred to in subsection (8) within seven days after its receipt of the request therefor and, where the corporation fails to give the certificate, statements and information within the time prescribed, the corporation shall be deemed, as against the person requesting the certificate, to have given a certificate stating no default.

Fee

(10) The corporation may charge a fee for providing the certificate, statements and information referred to in subsection (8), in the amount prescribed by regulation. 1978, c. 84, s. 32.

Lien has
priority

33.—(1) Where a lien created by subsection 32 (4) is in respect of a unit for residential purposes, that lien has priority over every registered and unregistered encumbrance notwithstanding that such encumbrance existed prior to the lien arising.

Where subs. (1)
does not
apply

(2) Subsection (1) does not apply,

(a) to a lien arising before the 1st day of January, 1978;

(b) in respect of a claim of the Crown other than by way of a mortgage;

(c) in respect of a claim for taxes, charges, rates or assessments levied or recoverable under the *Municipal Act*, the *Education Act*, the *Local Roads Boards Act*, the *Statute Labour Act* or the *Local Improvement Act*; or

R.S.O. 1980,
cc. 302, 129,
251, 482, 250

(d) to such lien or claim that may be designated by regulation.

(3) Every mortgage of a unit for residential purposes shall be deemed to contain a provision that,

Provisions
deemed in
mortgage

(a) the mortgagee has the right to collect the owner's contribution towards common expenses and shall forthwith pay any amount so collected to the corporation on behalf of the unit owner;

(b) the owner's default in the payment of common expenses shall constitute default under the mortgage; and

(c) the mortgagee shall have the right to pay the owner's contribution towards common expenses that shall from time to time fall due and be unpaid in respect of the mortgaged premises and that such payments together with all reasonable costs, charges and expenses incurred in respect thereto, shall be added to the debt thereby secured and shall be payable forthwith with interest at the rate payable on the mortgage, and, if after demand the owner fails to fully reimburse the mortgagee, the mortgage shall immediately become due and payable at the option of the mortgagee.

(4) A corporation shall, where so requested by the holder of a mortgage on a unit for residential purposes, provide, free of charge, to the person making the request a written statement setting out, in respect of the unit, the common expenses of the owner and all payments thereof in default.

Statement
to
mortgagee

(5) Where a lien arises in respect of a unit for residential purposes, the corporation shall, on or before the day a notice of lien is registered, give notice of the lien to every encumbrancer whose encumbrance is registered against the title of the unit, by personal service of the notice or by sending the notice by registered prepaid post addressed to the encumbrancer at his last known address.

Notice of
lien to be
given

(6) Where notice of lien is not given as provided in subsection (5), then subsection (1) ceases to apply three months after

Where notice
of lien
not given

the default that gave rise to the lien first occurred, provided that where notice is given after registration of notice of lien then the corporation may register another notice of lien, but subsection (1) shall continue to apply to any lien which arose not earlier than three months before the last registration of notice of lien. 1978, c. 84, s. 33.

AUDITORS AND FINANCIAL STATEMENTS

Auditors

34.—(1) The owners at their first meeting after the 1st day of June, 1979 shall appoint one or more auditors to hold office until the close of the next annual meeting and, if the owners fail to do so, the board shall forthwith make such appointment or appointments.

Idem

(2) The owners shall at each annual meeting appoint one or more auditors to hold office until the close of the next annual meeting and, if an appointment is not so made, the auditor in office continues in office until a successor is appointed.

Casual vacancy

(3) The directors may fill any casual vacancy in the office of auditor, but, while such vacancy continues, the surviving or continuing auditor, if any, may act.

Removal of auditor

(4) The owners may, by resolution passed by a majority of the votes cast at a meeting duly called for that purpose, remove an auditor before the expiration of his term of office, and shall by a majority of the votes cast at that meeting appoint another auditor in his stead for the remainder of his term.

Notice to auditor

(5) Before calling a meeting for the purpose of removing an auditor, the corporation shall, fifteen days or more before the giving of the notice of the meeting, give to the auditor,

(a) written notice of the intention to call the meeting, specifying therein the date on which the notice of the meeting is proposed to be mailed; and

(b) a copy of all material proposed to be sent to owners in connection with the meeting.

Right of auditor to make representations

(6) An auditor has the right to make to the corporation, three days or more before the mailing of the notice of the meeting, representations in writing, concerning,

(a) his proposed removal as auditor;

(b) the appointment or election of another person to fill the office of auditor; or

(c) his resignation as auditor,

and the corporation, at its expense, shall forward with the notice of the meeting, a copy of such representations to each person entitled to receive notice of the meeting.

(7) The remuneration of an auditor appointed by the owners shall be fixed by the owners, or by the board if it is authorized so to do by the owners, and the remuneration of an auditor appointed by the board shall be fixed by the board.

Remuneration

(8) If for any reason no auditor is appointed, the court may, on the application of an owner, appoint one or more auditors to hold office until the close of the next annual meeting and may fix the remuneration to be paid by the corporation for his or their services.

Appointment by court

(9) The corporation shall give notice in writing to an auditor of his appointment forthwith after the appointment is made.

Notice of appointment

(10) No person shall be appointed or act as auditor of a corporation who is a director, officer, employee or manager of the corporation, has an interest in contracts of the corporation, or is a partner, employer or employee of any director, officer, employee or manager of the corporation.

Persons disqualified as auditors

(11) This section does not apply to a corporation where the property consists of less than twenty-five units for residential purposes. 1978, c. 84, s. 34.

Where section does not apply

35.—(1) The auditor shall make such examination as will enable him to report to the owners as required by subsection (2).

Annual audit

(2) The auditor shall make a report to the owners on the financial statement, to be laid before the corporation at any annual meeting during his term of office, and shall state in his report whether in his opinion the financial statement referred to therein presents fairly the financial position of the corporation and the results of its operations for the period under review in accordance with generally accepted accounting principles applied on a basis consistent with that of the preceding period, if any.

Auditor's report

(3) Where the report under subsection (2) does not contain the unqualified opinion required thereby, the auditor shall state in his report the reasons therefor.

Idem

Facts
discovered
after
statement

(4) Where facts come to the attention of the board or officers of the corporation that if known prior to the date of the last annual meeting of owners would have required a material adjustment to the financial statement presented to the meeting, the board or officers shall communicate such facts to the auditor who reported to the owners under this section and the board shall forthwith amend the financial statement and send it to the auditor.

Amendment
of auditor's
report

(5) On the receipt of facts furnished under subsection (4) or from any other source, the auditor shall, if in his opinion it is necessary, amend his report with respect to the financial statement in accordance with subsection (2) and the board or, if it fails to do so within a reasonable time, the auditor, shall mail or deliver such amended report to the owners.

Idem

(6) The financial statement shall contain a statement of changes in net assets or a statement of source and application of funds, and the auditor shall include in his report a statement whether, in his opinion, in effect, the statement of changes in net assets or the statement of source and application of funds presents fairly the information shown therein.

Idem

(7) The auditor in his report shall make such statements as he considers necessary if,

- (a) the corporation's financial statement is not in agreement with its accounting records;
- (b) the corporation's financial statement is not in accordance with the requirements of this Act;
- (c) he has not received all the information and explanations that he has required; or
- (d) proper accounting records have not been kept, so far as appears from his examination.

Right of
access, etc.

(8) The auditor of a corporation has right of access at all times to all records, documents, accounts and vouchers of the corporation and is entitled to require from the directors, officers and employees of the corporation such information and explanations as, in his opinion, are necessary to enable him to report as required by subsection (2).

Auditor
may attend
owners'
meetings

(9) The auditor of a corporation is entitled to attend any meeting of owners and to receive all notices and other communications related to any such meeting that an owner is entitled to receive and to be heard at any such meeting that

he attends on any part of the business of the meeting that concerns him as auditor.

(10) At any meeting of owners, the auditor, if present, shall answer inquiries directed to him concerning the basis upon which he formed the opinion stated in the report made under subsection (2). Auditor must answer inquiries at owners' meetings

(11) The financial statement shall be approved by the board and the approval shall be evidenced by the signature at the foot of the balance sheet by two of the directors duly authorized to sign, and the auditor's report shall be attached to or accompany the financial statement. Financial statement approved by board

(12) The corporation shall, ten days or more before the date of the annual meeting of owners, send by prepaid mail or deliver to each owner at his latest address as shown on the records of the corporation and shall file with the bureau a copy of the financial statement and a copy of the auditor's report. Corporation to send copies of financial statements, etc., to owners

(13) The board shall lay before each annual meeting of owners, Statements laid before owners at annual meeting

- (a) a financial statement made in accordance with generally accepted accounting principles;
- (b) the report of the auditor to the owners; and
- (c) such further information respecting the financial position of the corporation as the by-laws of the corporation require. 1978, c. 84, s. 35.

RESERVE FUND

36.—(1) In this Act and the regulations, the declaration, by-laws and financial statements prepared in accordance with this Act, the declaration or by-laws, “reserve fund” means a fund set up by the corporation in a special account for major repair and replacement of common elements and assets of the corporation including where applicable without limiting the generality of the foregoing, roofs, exteriors of buildings, roads, sidewalks, sewers, heating, electrical and plumbing systems, elevators, laundry, recreational and parking facilities. Reserve fund defined

(2) The corporation shall establish and maintain one or more reserve funds and shall collect from the owners, as part of their contribution towards common expenses, amounts that, calculated on the basis of expected repair and replacement costs and life expectancy of things comprising the common elements and the assets of the corporation, Reserve fund established and maintained

are reasonably expected to provide sufficient funds for major repair and replacement of common elements and assets of the corporation, but in no event shall the contributions to the reserve fund or funds be less than 5 per cent of the amount required for contributions to the common expenses exclusive of the reserve fund.

Idem

(3) On and after the 1st day of June, 1982, the contribution to the reserve fund or funds shall be not less than 10 per cent of the amount required for contributions to the common expenses exclusive of the reserve fund.

Idem

(4) Any fund set up for any of the purposes mentioned in subsection (1) shall be deemed to be a reserve fund notwithstanding that it may not be so designated.

Use of
reserve fund
limited

(5) No part of a reserve fund shall be used except for the purposes for which the fund was established.

Fund not
available for
distribution

(6) The amount of a reserve fund shall constitute an asset of the corporation and shall not be distributed to any owner except on termination of the corporation.

Bureau may
exempt
from
subss. (2), (3)

(7) The bureau may, upon being satisfied that the corporation has sufficient reserve funds, exempt the corporation from the requirements set out in subsections (2) and (3) upon such terms and conditions and for such period of time as the bureau considers proper. 1978, c. 84, s. 36.

Commence-
ment
of subs. (7)

(8) Subsection (7) does not come into force until a day to be named by proclamation of the Lieutenant Governor. 1978, c. 84, s. 62, *revised*.

AUDIT COMMITTEE

Audit
committee
may be
established

37.—(1) Where the number of directors of a corporation is more than six, the directors may elect annually from among their number a committee to be known as the audit committee to be composed of not fewer than three directors, of whom a majority shall not be officers or employees of the corporation, to hold office until the next annual meeting of the owners.

Auditor
shall submit
financial
statement

(2) The auditor shall submit the financial statement to the audit committee for its review and the financial statement shall thereafter be submitted to the board.

Auditor's
right to
appear

(3) The auditor has the right to appear before and be heard at any meeting of the audit committee and shall appear before the audit committee when required to do so by the committee.

(4) Upon the request of the auditor, the audit committee shall convene a meeting of the committee to consider any matters the auditor believes should be brought to the attention of the board or members. 1978, c. 84, s. 37.

Committee
convening
at request
of auditor

MODIFICATIONS OF COMMON ELEMENTS AND ASSETS

38.—(1) The corporation may by a vote of owners who own 80 per cent of the units make any substantial addition, alteration or improvement to or renovation of the common elements or may make any substantial change in the assets of the corporation, and the corporation may by a vote of the owners make any other addition, alteration or improvement to or renovation of the common elements or may make any other change in the assets of the corporation.

Substantial
alterations

(2) A grant or transfer of an easement to the corporation is as effective as if the corporation owns land capable of being benefitted by the easement.

Easement

(3) The cost of any addition, alteration or improvement to or renovation of the common elements and the cost of any change in the assets of the corporation are common expenses.

Cost

(4) If any substantial addition, alteration or improvement to or renovation of the common elements is made, or if any substantial change in the assets of the corporation is made, the corporation must, on demand of any owner who dissented, made within ten days after the date of the vote referred to in subsection (1), purchase his unit and common interest.

Dissenters

(5) Where the corporation and the owner who dissented do not agree as to the purchase price, the owner who dissented may elect to have the fair market value of his unit and common interest determined by arbitration under the *Arbitrations Act* by serving a notice to that effect on the corporation. 1978, c. 84, s. 38.

Arbitration

R.S.O. 1980,
c. 25

AGREEMENTS

39.—(1) The corporation may, by by-law, terminate, on giving sixty days notice in writing, any agreement between the corporation and any person for the management of the property entered into at a time when the majority of the members of the board were elected when the declarant was the registered owner of a majority of the units.

Management
agreement

(2) Every agreement for the provision of services on a continuing basis, every lease of the common elements or part

Agreements
expiring

thereof for business purposes and every agreement for the provision of recreation facilities to the corporation on other than a non-profit basis entered into by a corporation after the 1st day of June, 1979 and at a time when the majority of the members of the board were elected when the declarant was the registered owner of a majority of the units that does not expire within twelve months after its effective date shall be deemed to expire twelve months after its effective date unless, within the twelve month period, the agreement is ratified by the board at a time when the majority of the board members were elected after the declarant ceased to be the registered owner of a majority of the units. 1978, c. 84, s. 39.

INVESTIGATION OF RECORDS

Examination
of records

40.—(1) Every person in receipt of money paid to or for the benefit of the corporation shall, upon reasonable notice and during normal business hours, make available for examination by the corporation or any owner or mortgagee, all records relating to the receipt and disposition of such money.

Application
to court

(2) Upon application to a judge of a county or district court by the corporation or any owner or mortgagee, the judge, if satisfied that the application is made in good faith and that it is *prima facie* in the best interests of the applicant to do so, may make an order, upon such terms as to the costs of the investigation or audit or otherwise as he considers proper, appointing an inspector to make such investigation of the affairs of any person in receipt of money mentioned in subsection (1) and to make such audit of the accounts and records of such person as the judge considers necessary.

Power of
inspector
R.S.O. 1980,
c. 411

(3) An inspector appointed under subsection (2) has the powers of a commission under Part II of the *Public Inquiries Act*, which Part applies to such investigation or audit as if it were an inquiry under that Act.

Trust
money

(4) All money referred to in subsection (1) shall be held by the person in receipt thereof in trust for the performance of the duties and obligations in respect of which the money is paid, and he shall pay such money into a separate account at a chartered bank or trust company or a loan company or credit union authorized by law to receive money on deposit or a Province of Ontario Savings Office and shall designate the account as a trust account in the name of the corporation. 1978, c. 84, s. 40.

REPAIRS AND MAINTENANCE

Interpre-
tation

41.—(1) For the purposes of this Act, the obligation to repair after damage and to maintain are mutually exclusive,

and the obligation to repair after damage does not include the repair of improvements made to units after registration of the declaration and description.

(2) Subject to section 42, the corporation shall repair the units and common elements after damage. Duty to repair

(3) The corporation shall maintain the common elements. Maintenance of common elements

(4) Each owner shall maintain his unit. Maintenance of units

(5) Notwithstanding subsections (2), (3) and (4), the declaration may provide that, Declaration may provide otherwise

(a) each owner shall, subject to section 42, repair his unit after damage;

(b) the owners shall maintain the common elements or any part of the common elements;

(c) the corporation shall maintain the units; or

(d) each owner shall maintain and repair after damage those parts of the common elements of which he has the exclusive use.

(6) The corporation shall make any repairs that an owner is obligated to make and that he does not make within a reasonable time. Where corporation to make repairs for owners

(7) An owner shall be deemed to have consented to have repairs done to his unit by the corporation under this section and the cost of such repairs shall be added to the owner's contribution toward common expenses. Consent

(8) All warranties given with respect to workmanship and materials furnished to the property shall enure to the benefit of all unit owners from time to time and to the corporation. 1978, c. 84, s. 41. Warranties

WHERE DAMAGE OCCURS

42.—(1) Where damage to the building occurs, the board shall determine within thirty days of the occurrence whether there has been substantial damage to 25 per cent of the buildings. Determination of damage

(2) Where there has been a determination that there has been substantial damage to 25 per cent of the buildings, the corporation shall repair within a reasonable time, unless, within sixty days after the determination made under subsection (1), by a vote of owners who own 80 per cent of the units, the owners vote for termination. 1978, c. 84, s. 42. Repair of damage

TERMINATION

Notice of
termination

43.—(1) Where, under subsection 42 (2), the owners vote for termination, the corporation shall, within ten days of the vote, register a notice of termination in the prescribed form.

Effect of
registration
of notice

(2) Upon the registration of a notice of termination under subsection (1),

- (a) the government of the property by this Act is terminated;
- (b) the owners are tenants in common of the land and interests appurtenant to the land described in the description in the same proportions as their common interests;
- (c) claims against the land and interests appurtenant to the land created before the registration of the declaration and description are as effective as if the declaration and description had not been registered;
- (d) encumbrances against each unit and common interest created after the registration of the declaration and description are claims against the interest of the owner in the land and interests appurtenant to the land described in the description, and have the same priority they had before the registration of the notice of termination; and
- (e) all claims against the property created after the registration of the declaration and description, other than the encumbrances mentioned in clause (d), are extinguished. 1978, c. 84, s. 43.

Sale of
property

44.—(1) Sale of the property or any part of the common elements may be authorized,

- (a) by a vote of owners who own 80 per cent of the units;
- (b) by the consent of the persons having registered claims against the property or the part of the common elements, as the case may be, created after the registration of the declaration and description; and
- (c) if the sale of part only of the common elements includes any portion of the common elements that are to be used by the owners of one or more designated units and not by all the owners, by the consent of the owners of the designated units affected.

(2) A deed or transfer shall be executed by the authorized officers of the corporation under its seal and a release or discharge shall be given by all persons having registered claims against the property or the part of the common elements, as the case may be, created after the registration of the declaration and description.

Execution of
conveyance

(3) Upon the registration of the instruments mentioned in subsection (2),

Effect of
registration
of
conveyance

(a) the government of the property or of the part of the common elements by this Act is terminated;

(b) claims against the land and interests appurtenant to the land created before the registration of the declaration and description are as effective as if the declaration and description had not been registered; and

(c) claims against the property or the part of the common elements created after the registration of the declaration and description are extinguished.

(4) Subject to subsection (5), the owners share the proceeds of the sale in the same proportions as their common interests.

Proceeds

(5) Where a sale is made under this section, any owner who dissented may elect to have the fair market value of the property at the time of the sale determined by arbitration under the *Arbitrations Act* by serving notice to that effect on the corporation within ten days after the vote, and the owner who served the notice is entitled to receive from the proceeds of the sale the amount he would have received if the sale price had been the fair market value as determined by the arbitration.

Rights of
dissenters

R.S.O. 1980,
c. 25

(6) Where the proceeds of the sale are inadequate to pay the amount determined under subsection (5), each of the owners who voted for the sale is liable for a portion of the deficiency determined by the proportions of their common interests.

Where
proceeds
inadequate

(7) Subject to subsection (8), where any part of the common elements are expropriated under the *Expropriations Act*, the owners shall share the proceeds in the same proportions as their common interests.

Expro-
priation
R.S.O. 1980,
c. 148

Idem
R.S.O. 1980,
c. 148

(8) Any portion of the proceeds received on expropriation under the *Expropriations Act* that is attributable to any portion of the common elements that are to be used only by the owners of designated units and not by all the owners shall be divided among the owners of the designated units affected in the proportions in which their interests are affected. 1978, c. 84, s. 44.

Termination
by notice
without sale

45.—(1) Termination of the government of the property by this Act may be authorized,

- (a) by a vote of owners who own 80 per cent of the units; and
- (b) by the consent of the persons having registered claims against the property created after the registration of the declaration and description.

Registration
of notice

(2) Where termination of the government of the property by this Act is authorized under subsection (1), the corporation shall register a notice of termination in the prescribed form, executed by the authorized officers of the corporation under its seal and by all the persons having registered claims against the property created after the registration of the declaration and description.

Effect of
registration

(3) Upon registration of a notice of termination under subsection (2),

- (a) the government of the property by this Act is terminated;
- (b) the owners are tenants in common of the land and interests appurtenant to the land described in the description in the same proportions as their common interests;
- (c) claims against the land and the interests appurtenant to the land described in the description created before the registration of the declaration and description are as effective as if the declaration and description had not been registered;
- (d) encumbrances against each unit and common interest created after the registration of the declaration and description are claims against the interest of the owner in the land and interests appurtenant to the land described in the description and have the

same priority as they had before the registration of the notice of termination; and

- (e) all other claims against the property created after the registration of the declaration and description are extinguished. 1978, c. 84, s. 45.

46.—(1) A corporation, any owner, or any person having an encumbrance against a unit and common interest may apply to the Supreme Court for an order terminating the government of the property by this Act. ^{Termination by S.C.O.}

(2) The court may order that the government of the property by this Act be terminated if the court is of the opinion that the termination would be just and equitable, and, in determining whether the termination would be just and equitable, the court shall have regard to,

- (a) the scheme and intent of this Act;
- (b) the probability of unfairness to one or more owners if termination is not ordered;
- (c) the probability of confusion and uncertainty in the affairs of the corporation or the owners if termination is not ordered.

(3) Where an order of termination is made under sub-section (2), the court may include in the order any provisions that the court considers appropriate in the circumstances. ^{Ancillary matters}
1978, c. 84, s. 46.

47. When the owners and the property cease to be governed by this Act, ^{Termination}

- (a) the assets of the corporation shall be used to pay any claims for the payment of money against the corporation;
- (b) the remainder of the assets of the corporation shall be distributed among the owners in the same proportions as the proportions of their common interests. 1978, c. 84, s. 47.

VOTING BY MORTGAGEES

48. Where a mortgage of a unit and common interest contains a provision that authorizes the mortgagee to exercise ^{Rights of mortgagees}

the right of the owner to vote or to consent, the mortgagee may exercise the right, and, where two or more such mortgages contain such a provision, the right may be exercised by the mortgagee who has priority. 1978, c. 84, s. 48.

PERFORMANCE OF DUTIES

Application
for order
to require
performance
of duties

49.—(1) Where a duty imposed by this Act, the declaration, the by-laws or the rules is not performed, the corporation, any owner, the bureau, or any person having a registered mortgage against a unit and common interest, may apply to the county or district court for an order directing the performance of the duty.

Idem

(2) The court may by order direct performance of the duty and may include in the order any provisions that the court considers appropriate in the circumstances.

Tenant to
pay common
expense
default in
lieu of rent

(3) Where the owner who has leased his unit defaults in his obligation to contribute to the corporation towards the common expenses as provided under subsection 32 (1) and subsection 41 (7), the corporation may by written notice to the lessee require the lessee to pay to the corporation, and upon receipt of such notice the lessee shall pay, out of the rent due under the lease, an amount equal to the default and such payment shall constitute payment toward rent under the lease and the lessee shall not by reason only of such payment to the corporation be in default of his obligation under the lease.

Application
to lessees

(4) The lessee of a unit is subject to the duties imposed by this Act, the declaration, the by-laws and the rules on an owner, except those duties respecting common expenses, and this section applies in the same manner as to an owner and, where the lessee is in contravention of an order under this section or where he fails to pay, pursuant to a notice given under subsection (3), the court may terminate the lease.

Saving

(5) Nothing in this section restricts the remedies otherwise available for failure to perform any duty imposed by this Act.

Notification
of unit lease

(6) Where the owner of a unit leases his unit, the owner shall notify the corporation that the unit is leased and shall provide to the corporation the lessee's name and the owner's address. 1978, c. 84, s. 49.

APPLICATION OF THE PLANNING ACT

50.—(1) Section 29 and clause 35 (1) (b) of the *Planning Act* do not apply in respect of dealings with whole units and common interests. Application of subdivision control

(2) Subject to subsection (3), the provisions of section 36 of the *Planning Act* that apply to plans of subdivision apply, with necessary modifications, to descriptions under this Act, and a description shall not be registered unless approved or exempted by the Minister of Housing. Approval of descriptions under R.S.O. 1980, c. 379, s. 36

(3) Before making an application under subsection 36 (1) of the *Planning Act*, the owner of a property or someone authorized by him in writing may apply to the Minister of Housing to have the description or any part of the description exempted from such section 36, or from any provisions thereof, and where in the opinion of the Minister such exemption is appropriate in the circumstances, he may grant the exemption. Exemption

(4) Section 38 of the *Planning Act* does not apply in respect of descriptions made for the purposes of this Act. 1978, c. 84, s. 50. R.S.O. 1980, c. 379, s. 38, not to apply

SALE AND LEASE OF UNITS

51.—(1) Every agreement of purchase and sale entered into by a proposed declarant for a proposed unit for residential purposes shall be deemed to contain, Implied covenants in agreement of purchase and sale

- (a) a covenant by the vendor to take all reasonable steps to register a declaration and description in respect of the property in which the unit is included without delay;
- (b) a covenant by the vendor to take all reasonable steps to sell the other residential units included in the property without delay other than any units mentioned in a statement under clause 54 (1) (c);
- (c) a covenant by the vendor to take all reasonable steps to deliver to the purchaser a registrable deed or transfer of the unit without delay; and
- (d) a provision that the vendor will not collect from the purchaser any money on behalf of the corporation.

Failure to register declaration within a specified period

(2) Notwithstanding any provision to the contrary contained therein, an agreement of purchase and sale of a proposed unit for residential purposes shall not be terminated by the proposed declarant only by reason of the failure to register the declaration and description within a period of time specified in the agreement, unless the purchaser consents to the termination in writing.

Application to court

(3) Notwithstanding subsection (2), the proposed declarant may apply to a judge of a county or district court and the judge may by order terminate the agreement if he is satisfied that,

- (a) the proposed declarant has taken all reasonable steps to register a declaration and description;
- (b) a declaration and description cannot be registered within a reasonable period of time; and
- (c) the failure and inability to register a declaration and description is caused by circumstances beyond the control of the proposed declarant.

Subsequent registration under Act

(4) The judge may, in an order under subsection (3), provide that a declaration and description shall not be registered in respect of the property in which the proposed unit is included during such period as he specifies in the order.

Registration of order

(5) An order under subsection (3) is ineffective until a certified copy thereof is registered.

Payment of purchase price

(6) Where an agreement of purchase and sale entered into by a proposed declarant for a proposed unit for residential purposes permits or requires the purchaser to take possession of or occupy the unit before a deed or transfer of the unit acceptable for registration is delivered to him, the money paid in respect of such right or obligation to the proposed declarant shall be not greater, on a monthly basis, than the total of the following amounts:

1. The amount of interest that the purchaser would have paid, monthly, in respect of any mortgage or mortgages he is obligated to assume or give under the agreement of purchase and sale on delivery of a deed or transfer of the unit.
2. An amount reasonably estimated on a monthly basis for municipal taxes attributable to the proposed unit.
3. The projected monthly common expense contribution for that unit.

(7) Where a purchaser takes possession of a proposed unit for residential purposes under an agreement that permits the purchaser to take possession of or occupy the unit before a deed or transfer of the unit acceptable for registration is delivered to him, notwithstanding the provisions of the *Landlord and Tenant Act*, the proposed declarant,

Rights and
duties of
proposed
declarant

R.S.O. 1980,
c. 232

- (a) shall provide those services and only those services that the proposed corporation will have a duty to provide to owners;
- (b) shall repair and maintain the property and the proposed unit in the same manner as the proposed corporation will have a duty to repair and maintain;
- (c) has the same right of entry that the proposed corporation will have; and
- (d) may withhold consent to an assignment of the occupancy agreement. 1978, c. 84, s. 51.

52.—(1) An agreement of purchase and sale entered into after the 1st day of June, 1979 by a declarant or proposed declarant of a unit or proposed unit for residential purposes is not binding on the purchaser until the declarant or proposed declarant has delivered to the purchaser a copy of the current disclosure statement and all material amendments thereto.

Disclosure
before sale

(2) The purchaser, before receiving delivery of a deed to or transfer of the unit, may rescind the agreement of purchase and sale within ten days after receiving the disclosure statement or, where there has been a material amendment thereto, within ten days after receiving the material amendment.

Rescission of
agreement

(3) A person may rescind an agreement of purchase and sale under subsection (2) by giving written notice of the rescission to the declarant or proposed declarant or to the solicitor of the declarant or proposed declarant.

Notice of
rescission

(4) Every declarant or proposed declarant who receives notice of rescission under subsection (3) from a person entitled to rescind the agreement of purchase and sale under subsection (2), shall forthwith refund, without penalty or charge, to the person giving notice, all money that he received from that person under the agreement that was credited as payment against purchase price.

On rescission,
money to be
refunded

(5) Where any statement or material required under this Act to be provided by a declarant or proposed declarant to a

Where
statement
false or
misleading

purchaser of a unit or proposed unit for residential purposes contains any material statement or information that is false, deceptive or misleading or fails to contain any material statement or information, the corporation or any unit owner who relied on such statement or material is entitled, as against the declarant or the proposed declarant to damages for any loss sustained as a result of such reliance.

Disclosure
statement

(6) The disclosure statement referred to in subsection (1) shall contain and fully and accurately disclose,

- (a) the name and municipal address of the declarant or proposed declarant and of the property or proposed property;
- (b) a general description of the property or proposed property including the types and number of buildings, units and recreational and other amenities together with any conditions that apply to the provision of amenities;
- (c) the portion of units or proposed units which the declarant or proposed declarant intends to market in blocks of units to investors;
- (d) a brief narrative description of the significant features of the existing or proposed declaration, by-laws and rules governing the use of common elements and units, and of any contracts or leases that may be subject to termination or expiration under section 39;
- (e) a budget statement for the one year period immediately following the registration of the declaration and the description;
- (f) where construction of amenities is not completed, a schedule of the proposed commencement and completion dates; and
- (g) any other matters required by the regulations to be disclosed.

Budget
statements

(7) The budget statement mentioned in clause (6) (e) shall set out,

- (a) the common expenses;
- (b) the proposed amount of each expense;
- (c) particulars of the type, frequency and level of the services to be provided;

(d) the projected monthly common expense contribution for each type of unit;

(e) a statement of the portion of the common expense to be paid into a reserve fund;

(f) a statement of the assumed inflation factor;

(g) a statement of any judgments against the corporation, the status of any pending lawsuits to which the corporation is a party and the status of any pending lawsuits material to the property of which the declarant or proposed declarant has actual knowledge;

(h) any current or expected fees or charges to be paid by unit owners or any of them for the use of the common elements or part thereof and other facilities related to the property;

(i) any services not included in the budget that the declarant or proposed declarant provides, or expenses that he pays and that might reasonably be expected to become, at any subsequent time, a common expense and the projected common expense contribution attributable to each of those services or expenses for each type of unit;

(j) the amounts in all reserve funds; and

(k) any other matters required by the regulations to be disclosed.

(8) Where the total amount incurred for the common expenses provided for in the budget statement exceeds the total of the proposed amounts set out in the statement, for the period covered by the budget statement mentioned in clause (6) (e) the declarant shall forthwith pay to the corporation the amount of the excess except in respect of increased expenses attributable to the termination of an agreement under section 39.

Inaccurate
statement
of common
expenses

(9) Where the declarant shows any expected fees, charges, rents or other revenue to be paid to the corporation for the use of the common elements or assets or any part thereof or any other facilities related to the property and,

Where
revenue
shown on
budget
statement

(a) where the total amount received is less than the expected fees, charges, rents or other revenue, the declarant shall forthwith pay to the corporation the

amount of the deficiency less the amount, if any, that the total of the proposed amounts for common expenses set out in the budget statement mentioned in clause (6) (e) exceeds the total amount incurred for common expenses for the period covered by the budget statement; or

- (b) where the total amount received is more than the expected fees, charges, rents or other revenue, the declarant may set off the amount of the excess against any amount he may be required to pay under subsection (8). 1978, c. 84, s. 52.

Trust
money

53.—(1) All money received by or on behalf of a proposed declarant from a purchaser on account of a sale or an agreement for the purchase and sale of a proposed unit for residential purposes before the registration of the declaration and description, other than money paid as rent or as an occupancy charge, shall, notwithstanding the registration of the declaration and description thereafter, be held in trust by the person receiving such money for the person entitled thereto in respect of the agreement and such money shall be held in a separate account designated as a trust account at a chartered bank or trust company or a loan company or credit union authorized by law to receive money on deposit or a Province of Ontario Savings Office until,

- (a) its disposition to the person entitled thereto; or
- (b) delivery of prescribed security to the purchaser for repayment.

Interest

(2) Where an agreement of purchase and sale referred to in subsection (1) is terminated and the purchaser is entitled to the return of any money paid under the agreement, the proposed declarant shall pay to the purchaser interest on such money at the prescribed rate.

Idem

(3) Subject to subsection (2), where a purchaser of a proposed unit under an agreement of purchase and sale referred to in subsection (1) enters into possession or occupation of the unit before a deed or transfer of the unit acceptable for registration is delivered to him, the proposed declarant shall pay interest at the prescribed rate on all money received by him on account of the purchase price from the day the purchaser enters into possession or occupation until the day a deed or transfer acceptable for registration is delivered to him.

(4) Subject to subsections (2) and (3), the proposed declarant is ^{Idem} entitled to any interest earned on the money required to be held in trust under subsection (1). 1978, c. 84, s. 53.

54.—(1) A declarant or proposed declarant shall not ^{Leases of units} grant a lease of a unit or proposed unit for residential purposes unless,

- (a) the lessee has entered into a *bona fide* agreement to purchase the unit;
- (b) the lease grants to the lessee a *bona fide* option to purchase the unit;
- (c) every agreement of purchase and sale of a unit included in the property includes a statement that the unit to be included in the lease is or will be leased and specifies the uses that are or will be permitted by the lease; or
- (d) written notice of the lessor's intention to lease the unit has been given to every purchaser under an agreement of purchase and sale, registered owner and mortgagee entitled to vote, and the period referred to in subsection (2) has expired or, where an application is made under subsection (2), it is finally disposed of.

(2) Any person notified under clause (1) (d) may, within twenty- ^{Application to court} one days after receiving the notice, and on written notice to the declarant, apply to a judge of a county or district court, and the judge, if he is of the opinion that the declarant has not taken all reasonable steps to sell the unit, may by order prohibit the declarant from leasing the unit or grant other relief as he considers proper.

(3) The notice mentioned in clause (1) (d) shall specify ^{Contents of notice} the unit or units intended to be leased and the uses that will be permitted by the lease but need not set out any other terms or identify any proposed lessee.

(4) A declarant or proposed declarant may grant leases ^{Terms of lease} of a unit or proposed unit for residential purposes for a period in each case not exceeding two years, including renewals, provided that subsection (1) is complied with in respect of each lease.

(5) This section does not apply to the renewal of a lease ^{Exemption} of a unit or proposed unit where the lease was entered into before any agreement of purchase and sale of any unit or proposed unit included in the property is entered into.

Lease
defined

(6) In this section, "lease" includes a licence to use or occupy and any agreement in the nature of a lease. 1978, c. 84, s. 54.

Offences

55. Every person who knowingly contravenes subsection 26 (3), section 30, subsection 40 (1) or (4), subsection 52 (5), (6) or (7), subsection 53 (1), subsection 56 (8) or subsection 60 (1), or knowingly purports to enter into a lease in contravention of subsection 54 (1) or (4) is guilty of an offence and on conviction is liable to a fine of,

(a) not more than \$25,000, where the person is a corporation; or

(b) not more than \$2,000, where the person is other than a corporation. 1978, c. 84, s. 55.

BUREAU

Designating
bureau

R.S.O. 1980,
c. 95

56.—(1) The Lieutenant Governor in Council shall designate a non-profit corporation incorporated without share capital under the *Corporations Act* to be the bureau for the purposes of this Act.

Idem

(2) No corporation shall be designated under subsection (1) whose by-laws do not provide for representation of owners of condominium units on the board of directors.

Objects

(3) Upon its designation, the objects of the corporation are extended to include,

(a) advising and assisting the public in condominium matters;

(b) assisting in the resolution of disputes between condominium corporations and unit owners and between two or more unit owners and for this purpose appointing review officers and paying their remuneration;

(c) disseminating information for the purpose of educating and advising condominium corporations and unit owners concerning condominium matters and the financial, operating and management practices of condominium corporations; and

(d) assisting in the formulation and conduct of educational courses for property management. 1978, c. 84, s. 56 (1-3).

(4) The bureau shall appoint review officers who shall perform the duties and exercise the powers given to them by this Act and the regulations under the supervision of the bureau and shall perform such other duties as are assigned to them by the bureau.

Review
officers
appointed

(5) All moneys payable under this Act to the bureau shall be retained by the bureau and applied to defray the expenses incurred and expenditures made in the carrying out of its duties under this Act and otherwise for the purposes of its objects set out in subsection (3).

Revenues and
expenses

(6) The bureau shall make a report annually to the Minister of Consumer and Commercial Relations upon the affairs of the bureau, and the Minister shall submit the report to the Lieutenant Governor in Council and shall then lay the report before the Assembly if it is in session or, if not, at the next ensuing session.

Annual
reports

(7) Each corporation shall pay to the bureau an annual fee in the amount prescribed by regulation for each unit comprising the property and shall file such information and material as is prescribed by the regulations.

Fee to
bureau

(8) Every declarant shall file with the bureau the material set out in clauses 26 (3) (f), (g), (h) and (i) prior to the meeting required under subsection 26 (1).

Filing
plans

(9) The bureau is not a Crown agency within the meaning of the *Crown Agency Act*.

Bureau
not Crown
agency
R.S.O. 1980,
c. 106

(10) The bureau may exempt corporations from the provisions of subsections 36 (2) and (3) as set out in subsection 36 (7). 1978, c. 84, s. 56 (5-11).

Exemption
by bureau

57.—(1) Where there is a dispute between a corporation and an owner or between two or more owners in respect of any matter relating to this Act, the declaration, by-laws or rules, any party to the dispute may, prior to the commencement of any court proceeding in respect of the same matter, refer the matter in dispute to the bureau for resolution and shall notify all other parties affected.

Dispute

(2) Within fourteen clear days after the matter has been referred to the bureau, the bureau shall give written notice to all parties of the date, time and place for the consideration

Review by
officer

of the matter in dispute and shall designate a person as review officer to review the matter in dispute.

Subject-matter of review

(3) For purposes of a review under subsection (2), the review officer may inquire into any matter relevant to the subject-matter of the dispute, whether or not previously brought to his attention by the parties.

Order

(4) Upon completing the review and subject to subsection (5), the review officer may make an order ordering any party to the review to do or refrain from doing any act that is the subject-matter of the review.

Notice

(5) Where the review officer proposes to make an order under subsection (4), he shall serve notice of his proposal together with written reasons therefor on all parties to the review.

Idem

(6) A notice under subsection (5) shall state that every party to the review is entitled to appeal the proposed order to The Commercial Registration Appeal Tribunal and shall specify the place where the appeal may be filed.

Order may be made after notice

(7) Where there is no appeal to The Commercial Registration Appeal Tribunal, the review officer may make his order upon the expiration of twenty-one days after the last service of notice under subsection (5) on a party to the review.

Order filed

(8) On the request of any party to the review proceedings, the review officer shall file a copy of any order made by him under subsection (4) in the office of the Registrar of the Supreme Court under section 19 of the *Statutory Powers Procedure Act*, which applies thereto.

R.S.O. 1980, c. 484 does not apply

(9) Except as provided in subsection (8), the *Statutory Powers Procedure Act* does not apply to proceedings before the review officer designated by the bureau.

Appeal

(10) Every party to a review proceedings may appeal a review officer's proposal by filing a notice of appeal with The Commercial Registration Appeal Tribunal within twenty-one days after being served with notice of the review officer's proposal.

Idem

(11) On an appeal, The Commercial Registration Appeal Tribunal may proceed by way of a hearing *de novo* and after the hearing, the Tribunal may make any order it considers just and equitable and for such purposes the Tribunal shall substitute its opinion for that of the review officer. 1978, c. 84, s. 57.

58. Sections 56 and 57 do not come into force until a day to be named by proclamation of the Lieutenant Governor. 1978, ^{Commence-}
c. 84, s. 62, *revised*. ^{ment of}
ss. 56, 57

REGULATIONS

59.—(1) The Lieutenant Governor in Council may make Regulations
regulations,

- (a) classifying properties for the purposes of the regulations;
- (b) prescribing the duties of officers appointed under the *Land Titles Act* or the *Registry Act* for the purpose of this Act; ^{R.S.O. 1980,}
^{cc. 230, 445}
- (c) governing the method of describing in instruments of a property or any part of a property;
- (d) governing surveys, structural plans, descriptions and diagrams, and prescribing procedures for their registration and amendment;
- (e) requiring, in respect of any class of properties, in lieu of or in addition to the requirements of section 4, surveys of the properties showing the units and common elements;
- (f) respecting the registration and recording of declarations, descriptions, by-laws, notices of termination and other instruments;
- (g) respecting the names of corporations;
- (h) respecting additions to the common elements;
- (i) requiring the payment of fees to officers appointed under the *Land Titles Act* or the *Registry Act*, and prescribing the amounts thereof;
- (j) prescribing forms and providing for their use;
- (k) governing funds intended for the payment of common expenses;
- (l) requiring and governing the books, accounts and records that shall be kept by condominium corporations and requiring and governing the account-

ing to members of condominium corporations in such manner and at such times as are prescribed;

- (m) prescribing security for the purposes of clause 53 (1) (b);
- (n) prescribing rates of interest that shall be paid on moneys required to be held in trust under this Act;
- (o) designating liens or claims for the purposes of clause 33 (2) (d);
- (p) prescribing statements and information required for the purposes of subsection 32 (8);
- (q) regulating and governing the duties and powers of review officers appointed under subsection 56 (4);
- (r) prescribing the amounts of fees that are payable or chargeable under this Act;
- (s) prescribing information to be filed by corporations with the bureau;
- (t) prescribing any matter that by this Act is required or permitted to be or referred to as prescribed by the regulations.

Application
of regulations

(2) Any provision of any regulation may be made to apply to all properties or to any class of properties. 1978, c. 84, s. 58.

Offer to sell
land together
with lease
of dwelling
prohibited

60.—(1) No person shall offer to sell any interest in land together with a grant of exclusive occupancy or use for residential purposes of part of a building located on the land where that person will retain an interest in the land as tenant-in-common with the offeree unless he does so as a declarant or proposed declarant under this Act.

Exemptions
from subs. (1)

(2) The Lieutenant Governor in Council may make regulations exempting any person or group of persons from the provisions of subsection (1). 1978, c. 84, s. 59.

Act
supersedes
agreements

61. This Act applies notwithstanding any agreement to the contrary. 1978, c. 84, s. 60.

CHAPTER 85

Conservation Authorities Act

1. In this Act,

Interpre-
tation

- (a) “administration costs” means salaries and travelling expenses of members and employees of an authority, office rent, maintenance and purchase of office equipment, expenses connected with exhibits, visual equipment and printed matter for educational purposes, and all expenditures necessary for carrying out the objects of an authority other than capital expenses and maintenance costs of approved projects;
- (b) “advisory board” means an advisory board appointed by an authority;
- (c) “authority” means a conservation authority established by or under this Act or a predecessor of this Act;
- (d) “executive committee” means the executive committee appointed by an authority;
- (e) “land” includes buildings and any estate, term, easement, right or interest in, to, over or affecting land;
- (f) “maintenance costs” means all expenditures required specifically in relation to the operation or maintenance of an approved project;
- (g) “Minister” means the Minister of Natural Resources;
- (h) “municipality” means a city, town, village, township or improvement district, and includes a band under the *Indian Act* (Canada) that is permitted to control, manage and expend its revenue moneys under section 69 of that Act; R.S.C. 1970,
c. I-6
- (i) “participating municipality” means a municipality that is designated by or under this Act as a participating municipality;

(j) "project" means a work undertaken by an authority for the furtherance of its objects;

R.S.O. 1980,
c. 126

(k) "referee" means the referee appointed under the *Drainage Act*;

(l) "watershed" means an area drained by a river and its tributaries. R.S.O. 1970, c. 78, s. 1; 1972, c. 1, s. 84 (1).

Calling of
meeting

2.—(1) Where the councils of any two or more municipalities situate either wholly or partly within a watershed by resolution request the Minister to call a meeting for the establishment of an authority for the watershed or any defined part thereof, the Minister shall fix a time and place for such a meeting and shall forthwith notify the council of every municipality either wholly or partly within the watershed or such part thereof.

Represent-
atives at
meeting

(2) The council of each municipality may appoint representatives to attend the meeting in the following numbers:

1. Where the population is 250,000 or more, five representatives.
2. Where the population is 100,000 or more but less than 250,000, four representatives.
3. Where the population is 50,000 or more but less than 100,000, three representatives.
4. Where the population is 10,000 or more but less than 50,000, two representatives.
5. Where the population is less than 10,000, one representative.

Authority
of repre-
sentatives

(3) The representatives so appointed have authority to vote and generally act on behalf of their respective municipalities at such meeting.

Quorum

(4) At any meeting called under this section, a quorum consists of two-thirds of the representatives that the municipalities notified are entitled to appoint, but, where not fewer than three representatives are present at a meeting or adjourned meeting, they may adjourn the meeting or adjourned meeting from time to time. R.S.O. 1970, c. 78, s. 2.

3.—(1) Upon receipt by the Minister of a resolution passed at a meeting or adjourned meeting held under section 2 and at which a quorum was present by not less than two-thirds of the representatives present thereat requesting the establishment of an authority, the Lieutenant Governor in Council may establish a conservation authority and designate the municipalities that are the participating municipalities and the area over which the authority has jurisdiction. R.S.O. 1970, c. 78, s. 3 (1). Establishment of authority

(2) Where a municipality is only partly within the watershed, the Lieutenant Governor in Council may include the whole or that part of the municipality in the area over which the authority has jurisdiction. 1973, c. 98, s. 1. Area over which authority has jurisdiction

(3) The name of each authority shall be determined by the Lieutenant Governor in Council and shall conclude with the words "conservation authority". Name of authority

(4) Every authority is a body corporate. Corporate body

(5) Every authority may, for its purposes, borrow on the promissory note of the authority, at such rate of interest as the Minister approves, such moneys as may be required until payment to the authority of any grants and of sums to be paid to the authority by the participating municipalities. R.S.O. 1970, c. 78, s. 3 (3-5). Borrowing power

4.—(1) Where a regional municipality has been established, the regional municipality, on and after the 1st day of January after it is established, Regional municipality to act in place of local municipalities

(a) shall act in the place of the local municipalities within the regional municipality for the purpose of appointing representatives to attend a meeting for the establishment or enlargement of a conservation authority or the amalgamation of conservation authorities and for such purpose may appoint representatives in the numbers to which the local municipalities would otherwise have been entitled; and

(b) shall be a participating municipality in the place of such of the local municipalities within the regional municipality as are wholly or partly within the area under the jurisdiction of a conservation authority and shall appoint to each such authority the number of members to which the local municipalities would otherwise have been entitled as participating municipalities.

Present
members
when
regional
municipality
established

(2) When a regional municipality is established, the members of an authority then holding office who were appointed by a local municipality wholly or partly within the regional municipality shall continue to hold office until their respective terms of office expire and shall be deemed to have been appointed by the regional municipality. R.S.O. 1970, c. 78, s. 4.

Interpre-
tation

5.—(1) In this section, “Metropolitan Conservation Authority” means The Metropolitan Toronto and Region Conservation Authority.

Metropolitan
Conservation
Authority
continued

(2) The Metropolitan Toronto and Region Conservation Authority is continued and has jurisdiction in all matters provided for in this Act over the area under its jurisdiction on the 31st day of December, 1980, as it may be altered under this Act.

Present
participating
municipal-
ities

(3) The municipalities that were participating municipalities of the Metropolitan Conservation Authority on the 31st day of December, 1980, shall continue to be participating municipalities until otherwise provided under subsection (4). 1971, c. 64, s. 2, *part*.

Designation
of partici-
pating
municipal-
ities,
area and
appointment
of members

(4) The Lieutenant Governor in Council may designate,

(a) the municipalities that are the participating municipalities of the Metropolitan Conservation Authority; and

(b) the area over which the Metropolitan Conservation Authority has jurisdiction. 1971, c. 64, s. 2, *part*; 1973, c. 98, s. 2.

Members

(5) Notwithstanding section 14, the number of members appointed to the Metropolitan Conservation Authority by The Municipality of Metropolitan Toronto shall, at all times, be equal to the total number of members appointed by the other participating municipalities. 1971, c. 64, s. 2, *part*.

Hamilton
Region
Conservation
Authority
continued

6.—(1) The Hamilton Region Conservation Authority is continued and has jurisdiction in all matters provided for in this Act over the area under its jurisdiction on the 31st day of December, 1980, as it may be altered under this Act.

Present
participating
municipal-
ities

(2) The municipalities that were participating municipalities of the Hamilton Region Conservation Authority on the 31st day of December, 1980, shall continue to be participating municipalities until otherwise provided under subsection (3).

(3) The Lieutenant Governor in Council may designate the municipalities that are the participating municipalities of the Hamilton Region Conservation Authority and the area under its jurisdiction. Designation of participating municipalities

(4) Notwithstanding section 14, the number of members appointed by the City of Hamilton shall, at all times, be equal to the total number of members appointed by the other participating municipalities. 1971, c. 64, s. 3. Members

7.—(1) The Grand River Conservation Authority is continued as a conservation authority under this Act. R.S.O. 1970, c. 78, s. 7 (1). Grand River Conservation Authority continued

(2) The Lieutenant Governor in Council may, Designation of participating municipalities and appointment of members

(a) designate the municipalities that are the participating municipalities of the Grand River Conservation Authority and the area over which it has jurisdiction; and

(b) notwithstanding section 14, appoint not more than eight members to the Authority for a term of three years. R.S.O. 1970, c. 78, s. 7 (2); 1973, c. 98, s. 3.

(3) Each member of the Grand River Conservation Authority appointed by the Lieutenant Governor in Council shall hold office until the first meeting of the Grand River Conservation Authority after the term for which he was appointed has expired. R.S.O. 1970, c. 78, s. 7 (3). Term of office of members appointed

8. The Lieutenant Governor in Council may designate any group of municipalities that shall be considered as one municipality for the purpose of appointing a member or members to a conservation authority and provide for the appointment of the member or members to be appointed by a group of municipalities. 1973, c. 98, s. 4. Grouping of municipalities

9. Where the councils of any three municipalities situate either wholly or partly within the area comprising two or more watersheds by resolution request the Minister to call a meeting for the establishment of an authority for such watersheds or any defined parts thereof, the provisions of sections 2 and 3 apply with necessary modifications. R.S.O. 1970, c. 78, s. 8. Establishment of authority

Meeting for
enlargement
of authority

10.—(1) Where,

- (a) an authority has been established for one or more watersheds; and
- (b) the council of a municipality by resolution requests the Minister to call a meeting to consider the enlargement of the area over which the authority has jurisdiction to include one or more watersheds,

the Minister shall fix a time and place for such a meeting and shall forthwith notify the secretary-treasurer of the authority and the council of every municipality situate either wholly or partly within the watershed or watersheds to be included.

Repre-
sentatives

- (2) With respect to each municipality so notified, subsection 2 (2) applies.

Quorum

- (3) At any meeting called under this section, a quorum consists of the number of members of the existing authority required to constitute a quorum of the authority and two-thirds of the representatives that the municipalities notified are entitled to appoint, but, where not fewer than two members of the authority and three municipal representatives are present at a meeting or an adjourned meeting, they may adjourn the meeting or adjourned meeting from time to time.

Enlargement
of authority

- (4) Upon receipt by the Minister of a joint resolution passed at a meeting or adjourned meeting held under subsection (3) and at which a quorum was present by not less than two-thirds of the members of the authority and not less than two-thirds of the municipal representatives thereat requesting the enlargement of the area over which the authority has jurisdiction to include one or more watersheds, the Lieutenant Governor in Council may enlarge the area accordingly and may designate the additional municipalities that are the participating municipalities and the area over which the enlarged authority has jurisdiction. R.S.O. 1970, c. 78, s. 9.

Amalgama-
tion of
authorities

11.—(1) Where,

- (a) two or more authorities have been established for two or more adjoining watersheds or parts thereof; and
- (b) one or more of such authorities by resolution requests the Minister to call a meeting to consider the establishment of one authority to have jurisdiction over the areas then under the separate jurisdictions of such authorities,

the Minister shall fix a time and place for such meeting and shall forthwith notify the secretary-treasurer of each of the authorities concerned and the council of each municipality that is a participating municipality with respect to any of the authorities concerned.

(2) With respect to each municipality so notified, subsection 2 ^{Representatives} applies.

(3) At any meeting called under this section, a quorum ^{Quorum} consists of two-thirds of the representatives that the municipalities notified are entitled to appoint, but, where not fewer than three representatives are present at a meeting or adjourned meeting, they may adjourn the meeting or adjourned meeting from time to time.

(4) Upon receipt by the Minister of a resolution passed ^{Establishment of new authority} at a meeting or adjourned meeting held under subsection (3) and at which a quorum was present by not less than two-thirds of the representatives present thereat requesting the establishment of one authority for the watersheds or parts of watersheds concerned, the Lieutenant Governor in Council may establish an authority accordingly, dissolve the existing authorities, and designate the municipalities that are the participating municipalities and the area over which the new authority has jurisdiction.

(5) Upon the establishment of a new authority and ^{Assets and liabilities of former authorities} the dissolution of the existing authorities under subsection (4), all the assets and liabilities of the dissolved authorities vest in and become assets and liabilities of the new authority. R.S.O. 1970, c. 78, s. 10.

12. Where,

- (a) an authority has been established and has under ^{Enlargement of authority having jurisdiction in part of a watershed} its jurisdiction part of a watershed; and
- (b) the council of a municipality, situate either wholly or partly within any defined part of the watershed not under the jurisdiction of the authority, by resolution requests the Minister to call a meeting to consider the enlargement of the area over which the authority has jurisdiction to include such defined part,

the Minister shall fix a time and place for such meeting and shall forthwith notify the secretary-treasurer of the authority and the council of every municipality either wholly or

partly within such defined part, and the provisions of subsections 10 (2) (3) and (4) apply with necessary modifications. R.S.O. 1970, c. 78, s. 11; 1973, c. 98, s. 5.

Participating municipalities following annexation, etc.

13. Where a new municipality is erected or two or more municipalities are amalgamated or any area is annexed to a municipality and any part of the resulting municipality is within the area over which an authority has jurisdiction, such resulting municipality shall be deemed to have been designated a participating municipality by the Lieutenant Governor in Council. R.S.O. 1970, c. 78, s. 12.

Members of authority

14.—(1) Members of an authority shall be appointed by the respective councils of the participating municipalities in the numbers prescribed by subsection 2 (2) for the appointment of representatives, and each member shall hold office until the first meeting of the authority after the term for which he was appointed has expired. R.S.O. 1970, c. 78, s. 13 (1).

Idem

(2) Where the total number of members that may be appointed under subsection (1) is less than four, the Lieutenant Governor in Council may increase the total number of members that may be appointed and determine the number of members that a participating municipality may appoint. 1973, c. 98, s. 6.

Qualification

(3) Every member of an authority shall be resident in a participating municipality in which the authority has jurisdiction.

Term

(4) No member of an authority shall be appointed to hold office for more than three years at any one time. R.S.O. 1970, c. 78, s. 13 (2, 3).

Where part only of municipality under an authority

(5) Where part only of a municipality is situated in an area over which an authority has jurisdiction, the number of members appointed for the municipality shall be based on the population of that part only of the municipality, and such population shall be deemed to be the same proportion of the total population of the whole municipality as the area of that part of the municipality is of the total area of the municipality. R.S.O. 1970, c. 78, s. 13 (4); 1978, c. 87, s. 24.

Members appointed by Lieutenant Governor in Council

(6) Where a grant is made to an authority under section 40, the Lieutenant Governor in Council may appoint not more than three members of the authority for a term of three years, and each such member shall hold office for the term for which he was appointed and until his successor is appointed. R.S.O. 1970, c. 78, s. 13 (5).

15.—(1) The first meeting of an authority shall be held at such time and place as may be determined by the Minister and, in each year thereafter, the authority shall hold at least one meeting before the 1st day of March and at least one meeting after the 1st day of July and such other meetings as it considers necessary to effectively conduct the affairs of the authority. Meetings

(2) Within fifteen days after any meeting of an authority or of an executive committee, the secretary-treasurer of the authority shall send a copy of the minutes of the meeting to each member of the authority. R.S.O. 1970, c. 78, s. 14. Copies of minutes to members

16.—(1) Each member of an authority is entitled to one vote, and, in the event of a tie vote, the chairman has a second or deciding vote. Votes

(2) At any meeting of an authority, a quorum consists of one-third of the members appointed by the participating municipalities, except where there are fewer than six such members, in which case two such members constitute a quorum. Quorum

(3) A majority vote of the members present at any meeting is required upon all matters coming before the meeting. R.S.O. 1970, c. 78, s. 15. Majority vote

17.—(1) At the first meeting of an authority and thereafter at the first meeting held in each year, the authority shall appoint a chairman and one or more vice-chairmen from among the members of the authority, but, where a grant is made to an authority under section 40, the Lieutenant Governor in Council may appoint the chairman from among the members of the authority. Chairman, vice-chairmen

(2) Subject to subsection (1), upon the death of the chairman or a vice-chairman, or upon the incapacity of the chairman or a vice-chairman to act, or upon the chairman or a vice-chairman ceasing to be a member of the authority, the remaining members may appoint a member to fill such vacancy. Death of chairman or vice-chairman

(3) In the event of the absence of the chairman and the vice-chairmen from any meeting of an authority, the members present shall appoint an acting chairman who, for the purposes of such meeting, has all the powers and shall perform all the duties of the chairman. R.S.O. 1970, c. 78, s. 16. Absence of chairman and vice-chairmen

Appoint-
ment of
employees

18.—(1) An authority shall appoint a secretary-treasurer and may appoint such other employees as it considers necessary who shall hold office during the pleasure of the authority and shall receive such salary or other remuneration as the authority determines, payable out of the funds of the authority.

Advisory
boards

(2) An authority may appoint one or more advisory boards. R.S.O. 1970, c. 78, s. 17.

Executive
committee

19.—(1) The authority may appoint an executive committee from among the members of the authority.

Chairman,
vice-
chairmen

(2) The chairman and vice-chairmen of the authority shall be the chairman and vice-chairmen of the executive committee.

Appoint-
ment by
Lieutenant
Governor in
Council

(3) Where a grant is made to an authority under section 40, the Lieutenant Governor in Council may appoint a member of the authority to the executive committee. R.S.O. 1970, c. 78, s. 18.

Objects

20. The objects of an authority are to establish and undertake, in the area over which it has jurisdiction, a program designed to further the conservation, restoration, development and management of natural resources other than gas, oil, coal and minerals. R.S.O. 1970, c. 78, s. 19.

Powers of
authorities

21. For the purposes of accomplishing its objects, an authority has power,

- (a) to study and investigate the watershed and to determine a program whereby the natural resources of the watershed may be conserved, restored, developed and managed;
- (b) for any purpose necessary to any project under consideration or undertaken by the authority, to enter into and upon any land and survey and take levels of it and make such borings or sink such trial pits as the authority considers necessary;
- (c) to acquire by purchase, lease or otherwise and to expropriate any land that it may require, and, subject to the approval of the Lieutenant Governor in Council, to sell, lease or otherwise dispose of land so acquired;

- (*d*) to lease for a term of one year or less, without the approval of the Lieutenant Governor in Council, land acquired by the authority;
- (*e*) to purchase or acquire any personal property that it may require and sell or otherwise deal therewith;
- (*f*) to enter into such agreements for the purchase of materials, employment of labour and such other purposes as may be necessary for the due carrying out of any project;
- (*g*) to enter into agreements with owners of private lands to facilitate the due carrying out of any project;
- (*h*) to determine the proportion of the total benefit afforded to all the participating municipalities that is afforded to each of them;
- (*i*) to erect works and structures and create reservoirs by the construction of dams or otherwise;
- (*j*) to control the flow of surface waters in order to prevent floods or pollution or to reduce the adverse effects thereof;
- (*k*) to alter the course of any river, canal, brook, stream or watercourse, and divert or alter, as well temporarily as permanently, the course of any river, stream, road, street or way, or raise or sink its level in order to carry it over or under, on the level of or by the side of any work built or to be built by the authority, and to divert or alter the position of any water-pipe, gas-pipe, sewer, drain or any telegraph, telephone or electric wire or pole;
- (*l*) to use lands that are owned or controlled by the authority for such purposes, not inconsistent with its objects, as it considers proper;
- (*m*) to use lands owned or controlled by the authority for park or other recreational purposes, and to erect, or permit to be erected, buildings, booths and facilities for such purposes and to make charges for admission thereto and the use thereof;
- (*n*) to collaborate and enter into agreements with ministries and agencies of government, municipal councils and local boards and other organizations;

(o) to plant and produce trees on Crown lands with the consent of the Minister, and on other lands with the consent of the owner, for any purpose;

(p) to cause research to be done;

(q) generally to do all such acts as are necessary for the due carrying out of any project. R.S.O. 1970, c. 78, s. 20; 1971, c. 64, s. 4; 1972, c. 1, s. 2; 1972, c. 4, s. 12.

Grants
access

22. An authority and any municipality may enter into agreement for the construction or maintenance of a road or the reconstruction or maintenance of an existing road under the jurisdiction of the municipality for the purpose of providing access to lands of the authority used or to be used for park or recreational purposes. R.S.O. 1970, c. 78, s. 21.

Water
control
structures,
authority
of Minister
to operate

23. Notwithstanding any powers conferred upon an authority by this Act, the Minister or his representative may, when and for such periods as he considers necessary in the public interest, issue instructions for or take over the operation of all water control structures of an authority. R.S.O. 1970, c. 78, s. 22.

Approval
of project

24.—(1) Before proceeding with a project, the authority shall file plans and a description thereof with and obtain the approval in writing of the Minister, and, where any portion of the cost of a project is to be raised in a subsequent year or years, shall also obtain the approval of the Ontario Municipal Board. R.S.O. 1970, c. 78, s. 23 (1).

Exception

(2) Notwithstanding subsection (1), the approval of the Ontario Municipal Board is not required in respect of a project that is composed of phases, each of which can be implemented in any year without a participating municipality being required to raise funds for a phase other than in the year of implementation of the phase, provided that each phase shall be deemed to be a project for the year of its implementation for the purposes of section 25. 1973, c. 98, s. 7.

Notice re
raising of
portion
of cost

(3) When the statement of apportionment of the cost of any project requires a municipality to raise any portion of the cost in a subsequent year or years, the council shall, within thirty days after it receives the notice of

apportionment, notify the authority in writing whether such portion of the cost will be provided by the issue of debentures or raised by taxation in the subsequent year or years.

(4) When a municipal council has, in accordance with subsection 25 (2), notified the secretary of the Ontario Municipal Board that it is dissatisfied with any such apportionment, the time allowed for notifying the authority under subsection (3) shall be reckoned from the date of the order confirming or varying the apportionment.

Time for
notice where
apportion-
ment under
review

(5) Where any municipality is required to obtain the approval of the Ontario Municipal Board with respect to the raising of moneys in connection with any project of the authority, the application of the authority under subsection (1) shall be considered an application for such approval on behalf of the municipality.

Application
for approval
on behalf of
municipality

(6) Notwithstanding the *Lakes and Rivers Improvement Act*, a project for the construction of dams or other works on a lake or river that has been approved under this section does not require approval under that Act. R.S.O. 1970, c. 78, s. 23 (2-5).

Approval
under
R.S.O. 1980,
c. 229

25.—(1) When an authority has determined the proportion of the total benefit of any project afforded to all the participating municipalities that is afforded to each of them, it shall cause a notice containing a statement of such apportionment to be sent to the council of each participating municipality by registered mail.

Notice of
apportion-
ment

(2) Any municipal council that is dissatisfied with any such apportionment may, within thirty days after it receives notice of the apportionment, notify the secretary of the Ontario Municipal Board and the authority in writing by registered mail that it applies for a review of the apportionment by the Ontario Municipal Board.

Review of
apportion-
ment by
O.M.B.

(3) Upon such application, the Ontario Municipal Board shall fix a date for the hearing of all interested parties and shall give all necessary directions for the hearing.

Hearing

(4) The Ontario Municipal Board has authority to take evidence, to confirm or vary the apportionment of the authority and to fix and award costs, and its decision is final and conclusive and is not open to appeal.

Powers of
O.M.B. on
hearing

Variation of
apportion-
ment

(5) In the event of the authority varying any apportionment made by it, the provisions of this section apply with necessary modifications. R.S.O. 1970, c. 78, s. 24.

Determina-
tion of
capital
expenditure

26.—(1) An authority may, from time to time, determine what moneys will be required for capital expenditure in connection with any project.

Portion to
be raised
by partici-
pating muni-
cipalities

(2) The portion of the moneys so required that each participating municipality shall raise shall be in the same proportion as the benefit derived by each such municipality bears to the total benefit derived by all participating municipalities.

How money
to be raised

(3) Upon notice in writing of the amount required to be raised, signed by the secretary-treasurer of the authority, each participating municipality shall raise by the issue of debentures or otherwise such moneys as may be required by the authority for capital expenditure, subject only to such conditions as the Ontario Municipal Board may impose as to the time and manner of the raising of such moneys.

Enforcement
of payment

(4) Subject to subsection (3), an authority may enforce payment against any participating municipality of the portion of the capital cost required to be raised by the municipality as a debt due by the municipality to the authority.

Where only
part of muni-
cipality
in area

(5) Where only a part of a participating municipality is situated in the area over which the authority has jurisdiction, the portion of the moneys required to be raised by that municipality for capital expenditure may be charged only against the rateable property in that part of the municipality.

Limited
benefit

(6) Where the council of a participating municipality is of opinion that the major part of the benefit to be derived from a specific work accrues to a limited area of the municipality, the council, with the approval of the Minister, may by by-law provide that a specified portion of the moneys required to be raised by that municipality for capital expenditure in connection with that work shall be defrayed by a special rate upon the rateable property in that area, which area shall be defined in the by-law, and that the balance of such moneys shall be defrayed by a special rate upon the rateable property in the remaining portion of the municipality within the area over which the authority has jurisdiction. R.S.O. 1970, c. 78, s. 25.

Interpre-
tation

27.—(1) In subsection (3), “equalized assessment” means the assessment upon which taxes are levied in the year

preceding the year in which the proportion will be payable as adjusted by the application of the equalization factor based on such assessment provided by the Ministry of Revenue. R.S.O. 1970, c. 78, s. 26 (1); 1972, c. 3, s. 17 (2).

(2) After determining the approximate maintenance costs for the succeeding year, the authority shall apportion such costs to the participating municipalities according to the benefit derived or to be derived by each such municipality, and the amount apportioned to each municipality shall be levied against each such municipality.

Apportionment of maintenance costs

(3) After determining the approximate administration costs for the succeeding year, the authority shall apportion such costs to the participating municipalities in the proportion that the equalized assessment of the municipality or part bears to the equalized assessment of the whole area under the jurisdiction of the authority, and the amount apportioned to each municipality shall be levied against each such municipality.

Apportionment of administration costs

(4) An authority may establish a minimum sum that may be levied for administration costs by the authority against a participating municipality, and, where the amount apportioned to any municipality under subsection (3) is less than such minimum sum, the authority may levy the minimum sum against such municipality.

Minimum levy for administration costs

(5) The secretary-treasurer of the authority, forthwith after the amounts have been apportioned under subsections (2), (3) and (4), shall certify to the clerk of each participating municipality the total amount that has been levied under such subsections, and such amount shall be collected by the municipality in the same manner as municipal taxes for general purposes.

Notice of apportionment

(6) Where only a part of a participating municipality is situated in the area over which the authority has jurisdiction, the amount apportioned to that municipality may be charged only against the rateable property in that part of the municipality and shall be collected in the same manner as municipal taxes for general purposes.

Levy where only part of municipality in area

(7) An authority may enforce payment against any participating municipality of any portion of the maintenance costs or administration costs levied against such municipality as a debt due by such municipality to the authority.

Enforcement of payment

R.S.O. 1970, c. 78, s. 26 (2-7).

Regulations
by authority

28.—(1) Subject to the approval of the Lieutenant Governor in Council, an authority may make regulations applicable in the area under its jurisdiction,

- (a) restricting and regulating the use of water in or from rivers, streams, inland lakes, ponds, swamps, and natural or artificially constructed depressions in rivers or streams;
- (b) prohibiting or regulating or requiring the permission of the authority for the straightening, changing, diverting or interfering in any way with the existing channel of a river, creek, stream or water-course;
- (c) regulating the location of ponds used as a source of water for irrigation;
- (d) providing for the appointment of officers to enforce any regulation made under this section or section 29;
- (e) prohibiting or regulating or requiring the permission of the authority for the construction of any building or structure in or on a pond or swamp or in any area susceptible to flooding during a regional storm, and defining regional storms for the purposes of such regulations; and
- (f) prohibiting or regulating or requiring the permission of the authority for the placing or dumping of fill of any kind in any defined part of the area over which the authority has jurisdiction in which in the opinion of the authority the control of flooding or pollution or the conservation of land may be affected by the placing or dumping of fill. R.S.O. 1970, c. 78, s. 27 (1); 1971, c. 64, s. 5 (1); 1973, c. 98, s. 8 (1-3).

Exceptions

(2) No regulation made under this section,

- (a) shall limit the use of water for domestic or live stock purposes;
- (b) shall interfere with any rights or powers conferred upon a municipality in respect of the use of water for municipal purposes;
- (c) shall interfere with any rights or powers of Ontario Hydro or of any board or commission that is perform-

ing its functions for or on behalf of the Government of Ontario; or

(d) shall interfere with any rights or powers under the *Public Utilities Act*. R.S.O. 1970, c. 78, s. 27 (2); 1971, c. 64, s. 5 (2); 1973, c. 57, s. 19. R.S.O. 1980, c. 423

(3) Before refusing permission required under a regulation made under clause (1) (b), (e) or (f), the authority, or where the power to issue permission has been delegated to its executive committee, the executive committee shall hold a hearing to which the applicant shall be a party. Hearing

(4) After holding a hearing under subsection (3), the authority or committee, as the case may be, shall give written reasons for its refusal to the applicant. Reasons for decision

(5) An applicant who has been refused permission may, within thirty days of the receipt of the reasons for the decision, appeal to the Minister who may dismiss the appeal or grant the permission. 1973, c. 98, s. 8 (4). Appeal

(6) Every person who contravenes any regulation made under this section is guilty of an offence and on conviction is liable to a fine of not more than \$1,000 or to a term of imprisonment of not more than three months. Offence

(7) In addition to any other remedy or penalty provided by law, the court, upon making a conviction under subsection 6 for constructing a building or structure or placing or dumping fill in contravention of any regulation made under this section, may order the person convicted to remove any such building, structure or fill within such time as the court orders, and, if such person fails to comply with such order, the authority having jurisdiction in the area in which such building, structure or fill is situated may cause the building, structure or fill to be removed, and the cost thereof shall be borne and paid by the person convicted and is recoverable by the authority by action in a court of competent jurisdiction. R.S.O. 1970, c. 78, s. 27 (3, 4). Order for removal of fill, structure, etc.

29.—(1) Subject to the approval of the Lieutenant Governor in Council, an authority may make regulations applicable to lands owned by the authority, Regulations

(a) regulating and governing the use by the public of the lands and the works, vehicles, boats, services and things of the authority;

- (b) providing for the protection and preservation from damage of the property of the authority;
- (c) prescribing fees for the occupation and use of lands and works, vehicles, boats, recreational facilities and services;
- (d) prescribing permits designating privileges in connection with use of the lands or any part thereof and prescribing fees for such permits;
- (e) regulating and governing vehicular and pedestrian traffic and prohibiting the use of any class of vehicle or classes of vehicles;
- (f) prohibiting or regulating and governing the erection, posting up or other display of notices, signs, sign boards and other advertising devices;
- (g) prescribing terms and conditions under which horses, dogs and other animals may be allowed on the lands or any part thereof; and
- (h) subject to the *Forest Fires Prevention Act* and the regulations made thereunder, prohibiting or regulating and governing the use, setting and extinguishment of fires.

R.S.O. 1980,
c. 173

Offence

(2) Every person who contravenes any regulation made under this section is guilty of an offence and on conviction is liable to a fine of not more than \$100. R.S.O. 1970, c. 78, s. 28.

Regulations

30. Subject to the approval of the Minister, an authority shall make regulations,

- (a) providing for the calling of meetings of the authority and prescribing the procedure at such meetings;
- (b) prescribing the powers and duties of the secretary-treasurer;
- (c) designating and empowering officers to sign contracts, agreements and other documents on behalf of the authority; and
- (d) delegating all or any of its powers to the executive committee except,
 - (i) the termination of the services of the secretary-treasurer,

- (ii) the power to raise money, and
- (iii) the power to enter into contracts or agreements other than such contracts or agreements as are necessarily incidental to the works approved by the authority.

(2) Every authority shall make regulations under subsection (1) within one year after its establishment. R.S.O. 1970, c. 78, s. 29. Time for making regulations

31. The *Expropriations Act* applies where land is expropriated by an authority or where land is injuriously affected by an authority in the exercise of its statutory powers. 1971, c. 64, s. 6. Application of R.S.O. 1980, c. 148

32.—(1) Where any land required for the carrying out of a project or a part thereof is Crown land, a plan and description of the land prepared and signed by an Ontario land surveyor and signed by the chairman or vice-chairman of the authority shall be deposited with the Minister, and the project or the part thereof shall not be proceeded with until the authority has received the approval in writing of the Minister. R.S.O. 1970, c. 78, s. 31 (1); 1972, c. 4, s. 12. Affecting Crown land

(2) Where a project or a part thereof may interfere with a public work of Ontario or of Ontario Hydro, the authority shall file with the Minister of Government Services or with Ontario Hydro, as the case may be, a plan and description of the project or a part thereof together with a statement of the interference with the public work that may occur and a statement of the manner in which the authority proposes to remedy the interference, and the project or the part thereof shall not be proceeded with until the authority has received the approval in writing of the Minister of Government Services or of Ontario Hydro, as the case may be. R.S.O. 1970, c. 78, s. 31 (2); 1973, c. 2, s. 2; 1973, c. 57, s. 19. Interference with public work

(3) Where a project or a part thereof will interfere with a public road or highway, the authority shall file with the Minister of Transportation and Communications a plan and description of the project or a part thereof together with a statement of the interference with the public road or highway that will occur and a statement of the manner in which the authority proposes to remedy the interference, and the project or the part thereof shall not be proceeded with until the authority has received the approval in writing of the Minister of Transportation and Communications. R.S.O. 1970, c. 78, s. 31 (3); 1972, c. 1, s. 100 (2). Interference with highway

Costs,
how to be
borne

(4) The cost of rebuilding any road, highway, bridge, public work or work of Ontario Hydro or any part thereof and the cost of any other work that any of the Ministers of the Crown or Ontario Hydro may require to be done under this section shall be borne by the authority, except where an agreement providing for payment thereof in some other manner has been entered into with the Crown in right of Ontario or Ontario Hydro, as the case may be. R.S.O. 1970, c. 78, s. 31 (4); 1973, c. 57, s. 19.

Assessment
of lands of
authority
R.S.O. 1980,
cc. 302, 31

33.—(1) Land vested in an authority, except works erected by an authority for the purposes of a project, is taxable for municipal purposes by levy under subsection 158 (3) of the *Municipal Act* upon the assessment of such land determined in each year by the Ministry of Revenue based on the assessed value of the land at the market value thereof in accordance with section 18 of the *Assessment Act* as if the works erected by the authority on such land had not been erected. R.S.O. 1970, c. 78, s. 32 (1); 1972, c. 1, s. 84 (2).

Assessment
of rented
property

(2) Notwithstanding subsection (1), section 17 of the *Assessment Act* applies with necessary modifications in respect of lands vested in an authority. R.S.O. 1970, c. 78, s. 32 (2).

Valuation
notice

(3) The Ministry of Revenue shall, on completion of the valuation of such land, deliver or mail to each authority concerned and to the clerk of each municipality in which any of such land is situate a notice setting out the valuation of such land in the municipality. R.S.O. 1970, c. 78, s. 32 (3); 1972, c. 1, s. 84 (2).

Appeal

(4) Any such municipality or the authority may appeal to the Ontario Municipal Board against the valuation of the land in the municipality.

Notice of
appeal

(5) A notice of appeal to the Ontario Municipal Board under subsection (4) shall be sent by the party appealing, by registered mail, to the secretary of the Board within twenty-one days after the notice of valuation has been delivered or mailed under subsection (3).

Hearing

(6) Upon receipt of a notice of appeal, the secretary of the Ontario Municipal Board shall arrange a time and place for hearing the appeal and shall send notice thereof to all parties concerned in the appeal at least fourteen days before the hearing.

Jurisdiction
on appeal

(7) The Ontario Municipal Board upon appeal shall determine the amount at which the land in question shall be

valued, and the decision of the Board is final and binding.
R.S.O. 1970, c. 78, s. 32 (4-7).

(8) The assessment of land under subsection (1) shall be deter-^{First}
mined by the Ministry of Revenue in each year for the purpose of assessment
taxation in the following year. R.S.O. 1970, c. 78, s. 32 (8); 1972,
c. 1, s. 84 (2).

34.—(1) Where the carrying out of a project will require^{Cemetery}
the use of a cemetery or other place of interment of lands
human remains, the authority shall acquire other suitable lands
for the interment of the bodies contained in the cemetery
or other place of interment.

(2) The authority shall forward a notice to the owner of^{Notice to}
each lot in the cemetery or other place of interment, but, plot owners
if the owner or his whereabouts is unknown, the notice
shall, wherever possible, be forwarded to some other person
having an interest in the plot through relationship or
otherwise to a deceased person buried therein.

(3) The authority shall also cause a notice to be published^{Publication}
once a week for at least three weeks in a newspaper having of notice
general circulation in the locality where the cemetery or other
place of interment is located, which notice shall state,

- (a) that the cemetery or other place of interment has been acquired for the purposes of the authority;
- (b) that other land, describing it, has been acquired by the authority for the purpose of reintering the bodies;
- (c) that the authority will at its own expense proceed to remove the bodies from the cemetery or other place of interment to the lands acquired for reinterment at a time not less than one month after the forwarding or third publication of the notice, whichever is the later date; and
- (d) that the owner of any plot in the cemetery or other place of interment, or any other person with the approval of the authority, may cause any body interred in the cemetery or other place of interment to be removed to any other place of interment at his own expense if he obtains permission from the authority and effects the removal within one month from the forwarding or insertion of the notice, whichever is the later date, or before such later date as the authority determines.

Authority
to remove
bodies

(4) The authority has full power to cause the removal of any body from such cemetery or place of interment to any lands acquired under subsection (1) notwithstanding any other Act and to authorize the removal by any other person of any such body for reinterment in any other cemetery or place of interment.

Removal of
headstones

(5) Where a body is removed and reinterred, any headstone or other stone shall be removed and re-erected at the place of reinterment.

Conveyance
of lands for
reinterment

(6) The authority shall render land, including fences and buildings, acquired for the reinterment of bodies, in a fit and proper condition and shall convey the land to the owner of the cemetery or other place of interment from which the bodies were removed. R.S.O. 1970, c. 78, s. 33.

Use of
water power

35.—(1) Subject to the right of an authority to use any water power created upon lands vested in it for its own uses, which does not include the marketing or sale of power, Ontario Hydro has the sole right to use such water power, but Ontario Hydro may consent to the use of any such water power by any person on such terms and conditions as are satisfactory to it and to the authority. R.S.O. 1970, c. 78, s. 34 (1); 1973, c. 57, s. 19.

Compensa-
tion for
water power

(2) Ontario Hydro shall pay to the authority an annual, reasonable compensation for the use of any such water power used by Ontario Hydro. R.S.O. 1970, c. 78, s. 34 (2); 1973, c. 57, s. 19.

Determina-
tion of
compensa-
tion

(3) Where the authority and Ontario Hydro are unable to agree upon the amount of compensation payable, the amount shall be determined by a committee of three members comprising a person appointed by the Minister, the chief engineer of Ontario Hydro and an engineer to be agreed upon by both of them, or, in the event that they are unable to agree, appointed by the Lieutenant Governor in Council, and the engineer so agreed upon or appointed shall act as chairman of the committee, and there is no appeal from the committee, but, after ten annual payments of compensation, the amount of compensation shall be redetermined by a like committee at the request of either the authority or Ontario Hydro. R.S.O. 1970, c. 78, s. 34 (3); 1973, c. 57, s. 19.

Charge for
additional
power

(4) Subject to review by Ontario Hydro, an authority shall charge persons who at the time of the establishment of the authority are, or thereafter become, users of power derived by them from the use of the waters of the watershed for any

additional power generated from increased head or flow due to the works undertaken by the authority. R.S.O. 1970, c. 78, s. 34 (4); 1973, c. 57, s. 19.

(5) This section does not apply to water power reserved to the Crown under the *Public Lands Act*. R.S.O. 1970, c. 78, s. 34 (5). When section not to apply
R.S.O. 1980,
c. 413

36. Where by this Act any power is conferred or duty imposed upon a municipality, or the council of a municipality, including a power or duty to raise money, such power may be exercised and such duty shall be performed by the council of the municipality without the assent of the electors. R.S.O. 1970, c. 78, s. 35. Assent of electors not necessary

37. The *Municipal Conflict of Interest Act* applies with necessary modifications to a member of a conservation authority. 1973, c. 98, s. 10. Conflict of interest
R.S.O. 1980,
c. 305

38. All moneys required by this Act to be raised for the purposes of an authority shall be paid to the authority, and the authority may spend such moneys as it considers proper, except that no salary, expenses or allowances of any kind shall be paid to any of the members of the authority without the approval of the Ontario Municipal Board. R.S.O. 1970, c. 78, s. 37. Moneys to be paid to authority

39.—(1) Every authority shall cause its accounts and transactions to be audited annually by a person licensed under the *Public Accountancy Act*. Annual audit
R.S.O. 1980,
c. 405

(2) No person shall be appointed as auditor of an authority who is or during the preceding year was a member of the authority or who has or during the preceding year had any direct or indirect interest in any contract or any employment with the authority other than for services within his professional capacity. Auditor

(3) An authority shall, upon receipt of the auditor's report of his examination of its accounts and transactions, forthwith forward a copy of the report to each participating municipality and to the Minister. R.S.O. 1970, c. 78, s. 38. Auditor's report

40. Grants may be made by the Minister to any authority out of the moneys appropriated therefor by the Legislature in accordance with such conditions and procedures as may be prescribed by the Lieutenant Governor in Council. R.S.O. 1970, c. 78, s. 39. Grants

CHAPTER 86

Constitutional Questions Act

1. The Lieutenant Governor in Council may refer to the Court of Appeal or to a judge of the Supreme Court for hearing and consideration any matter that he thinks fit, and the court or judge shall thereupon hear and consider the matter so referred. R.S.O. 1970, c. 79, s. 1. Reference to court authorized

2. The court or judge shall certify to the Lieutenant Governor in Council its or his opinion on the matter referred, accompanied by a statement of the reasons therefor, and, in the case of a reference to the Court of Appeal, any judge who differs from the opinion may in like manner certify his opinion and his reasons. R.S.O. 1970, c. 79, s. 2. Court to certify opinion

3. Where the matter relates to the constitutional validity of an Act of the Legislature or a provision thereof, the Attorney General for Canada shall be notified of the hearing in order that he may be heard if he sees fit. R.S.O. 1970, c. 79, s. 3. Notice to Attorney General for Canada

4. The court or judge may direct that any person interested, or, where there is a class of persons interested, any one or more persons as representatives of the class, be notified of the hearing, and such persons are entitled to be heard. R.S.O. 1970, c. 79, s. 4. Notice to persons interested

5. Where an interest affected is not represented by counsel, the court or judge may request counsel to argue the case in such interest, and the reasonable expenses thereof shall be paid by the Treasurer of Ontario out of any money appropriated by the Legislature and applicable for that purpose. R.S.O. 1970, c. 79, s. 5. Appointment of counsel

6. The opinion of the judge shall be deemed a judgment of the court, and an appeal lies therefrom as from a judgment in an action. R.S.O. 1970, c. 79, s. 6. Appeal

7. Where an appeal is had to the Court of Appeal, sections 2 to 5 apply as if the original reference had been to the Court of Appeal. R.S.O. 1970, c. 79, s. 7. Enactments applicable to appeals

CHAPTER 87

Consumer Protection Act

1. In this Act,

Interpre-
tation

- (a) “actually received” means the sum of money received by the borrower from the lender that can be used by the borrower without any restrictions on its use imposed by the lender;
- (b) “borrower” means a person who receives credit;
- (c) “business premises” does not include a dwelling;
- (d) “buyer” means a person who purchases goods for consumption or services under an executory contract and includes his agent, but does not include a person who buys in the course of carrying on business or an association of individuals, a partnership or a corporation;
- (e) “cost of borrowing” means,
 - (i) in the case of credit other than variable credit, the amount by which,
 - (A) the total sum that the borrower is required to pay if the payments required are made as they become due, including all such sums regardless of the purpose or reason for the payment or the time of the payment,
exceeds,
 - (B) the sum actually received in cash by the borrower or, where the lender is a seller, the amount of the cash price of the goods or services less the sums, if any, actually paid as a down payment or credited in respect of a trade-in or paid or credited for any other reason plus, in each case, insurance or official fees, if any, actually paid by the lender,

- (ii) in the case of variable credit, the charges made in respect of the extension of the variable credit;
- (f) "credit" means credit for which the borrower incurs a cost of borrowing and,
- (i) given under an agreement between a seller and a buyer to purchase goods or services by which all or part of the purchase price is payable after the agreement is entered into, or
 - (ii) given by the advancement of money,
- but does not include credit given on the security of a mortgage of real property;
- (g) "Director" means the Director of the Consumer Protection Division of the Ministry of Consumer and Commercial Relations;
- (h) "dwelling" means any premises or any part thereof occupied as living accommodation;
- (i) "executory contract" means a contract between a buyer and a seller for the purchase and sale of goods or services in respect of which delivery of the goods or performance of the services or payment in full of the consideration is not made at the time the contract is entered into;
- (j) "goods" means personal property;
- (k) "itinerant seller" means a seller whose business includes soliciting, negotiating or arranging for the signing by a buyer, at a place other than the seller's permanent place of business, of an executory contract for the sale of goods or services, whether personally or by his agent or employee;
- (l) "lender" means a person who extends credit;
- (m) "Minister" means the Minister of Consumer and Commercial Relations;
- (n) "Ministry" means the Ministry of Consumer and Commercial Relations;

- (o) "official fee" means a fee that is required to be paid by or under a statute of Ontario or Canada;
- (p) "prescribed" means prescribed by this Act or the regulations;
- (q) "purchase price" means the total obligation payable by the buyer under an executory contract;
- (r) "registered" means registered under this Act;
- (s) "Registrar" means the Registrar of the Consumer Protection Bureau;
- (t) "regulations" means the regulations made under this Act;
- (u) "seller" means a person who is in the business of selling goods or services to buyers, and includes his agent;
- (v) "trade-in" means consideration given by a buyer in a form other than money or an obligation to pay money;
- (w) "Tribunal" means The Commercial Registration Appeal Tribunal under the *Ministry of Consumer and Commercial Relations Act*; R.S.O. 1980, c. 274
- (x) "variable credit" means credit made available under an agreement whereby the lender agrees to make credit available to be used from time to time, at the option of the borrower, for the purpose of the purchase from time to time of goods or services, and, without limiting the generality of the foregoing, includes credit arrangements commonly known as revolving credit accounts, budget accounts, cyclical accounts and other arrangements of a similar nature. R.S.O. 1970, c. 82, s. 1; 1971, c. 50, s. 23 (1); 1972, c. 1, s. 35.

2. This Act does not apply to the sale of a public utility as defined in section 1 of the *Public Utilities Act* or to any charge for the transmission, distribution or storage of gas as defined in the *Ontario Energy Board Act* where such charge has been approved by the Ontario Energy Board. Application R.S.O. 1980, cc. 423, 332
R.S.O. 1970, c. 82, s. 2.

PART I

REGISTRATION OF ITINERANT SELLERS

Duties of
Registrar

3. The Registrar may exercise the powers and shall perform the duties conferred or imposed upon him by or under this Part under the supervision of the Director. R.S.O. 1970, c. 82, s. 3.

Registration
required

4.—(1) No person shall carry on business as an itinerant seller unless he is registered by the Registrar under this Act.

Name and
place of
business

(2) A registered itinerant seller shall not carry on business in a name other than the name in which he is registered or from a place of business other than that authorized by the registration.

Representa-
tion

(3) No person shall publish or cause to be published in writing any representation that he is registered under this Act. R.S.O. 1970, c. 82, s. 4.

Registration

5.—(1) An applicant is entitled to registration or renewal of registration by the Registrar except where,

- (a) having regard to his financial position, the applicant cannot reasonably be expected to be financially responsible in the conduct of his business; or
- (b) the past conduct of the applicant affords reasonable grounds for belief that he will not carry on business in accordance with law and with integrity and honesty; or
- (c) the applicant is a corporation and,
 - (i) having regard to its financial position, it cannot reasonably be expected to be financially responsible in the conduct of its business, or
 - (ii) the past conduct of its officers or directors affords reasonable grounds for belief that its business will not be carried on in accordance with law and with integrity and honesty; or
- (d) the applicant is carrying on activities that are, or will be, if the applicant is registered, in contravention of this Act or the regulations.

(2) A registration is subject to such terms and conditions to give effect to the purposes of this Act as are consented to by the applicant, imposed by the Tribunal or prescribed by the regulations. 1971, c. 50, s. 23 (2), *part*. Conditions of registration

6.—(1) Subject to section 7, the Registrar may refuse to register an applicant where in the Registrar's opinion the applicant is disentitled to registration under section 5. Refusal to register

(2) Subject to section 7, the Registrar may refuse to renew or may suspend or revoke a registration for any reason that would disentitle the registrant to registration under section 5 if he were an applicant, or where the registrant is in breach of a term or condition of the registration. 1971, c. 50, s. 23 (2), *part*. Refusal to renew, suspend or revoke

7.—(1) Where the Registrar proposes to refuse to grant or renew a registration or proposes to suspend or revoke a registration, he shall serve notice of his proposal, together with written reasons therefor, on the applicant or registrant. Notice of proposal to refuse or revoke

(2) A notice under subsection (1) shall inform the applicant or registrant that he is entitled to a hearing by the Tribunal if he mails or delivers, within fifteen days after the notice under subsection (1) is served on him, notice in writing requiring a hearing to the Registrar and the Tribunal, and he may so require such a hearing. Notice requiring hearing

(3) Where an applicant or registrant does not require a hearing by the Tribunal in accordance with subsection (2), the Registrar may carry out the proposal stated in his notice under subsection (1). Powers of Registrar where no hearing

(4) Where an applicant or registrant requires a hearing by the Tribunal in accordance with subsection (2), the Tribunal shall appoint a time for and hold the hearing and, on the application of the Registrar at the hearing, may by order direct the Registrar to carry out his proposal or refrain from carrying out his proposal and to take such action as the Tribunal considers the Registrar ought to take in accordance with this Act and the regulations, and for such purposes the Tribunal may substitute its opinion for that of the Registrar. Powers of Tribunal where hearing

(5) The Tribunal may attach such terms and conditions to its order or to the registration as it considers proper to give effect to the purposes of this Act. Conditions of order

(6) The Registrar, the applicant or registrant who has required the hearing and such other persons as the Tribunal Parties

may specify are parties to proceedings before the Tribunal under this section.

Voluntary
cancellation

(7) Notwithstanding subsection (1), the Registrar may cancel a registration upon the request in writing of the registrant in the prescribed form surrendering his registration.

Continuation
of
registration
pending
renewal

(8) Where, within the time prescribed therefor or, if no time is prescribed, before expiry of his registration, a registrant has applied for renewal of his registration and paid the prescribed fee, his registration shall be deemed to continue,

(a) until the renewal is granted; or

(b) where he is served with notice that the Registrar proposes to refuse to grant the renewal, until the time for giving notice requiring a hearing has expired and, where a hearing is required, until the Tribunal has made its order.

Order
effective,
stay

R.S.O. 1980,
c. 274

(9) Notwithstanding that a registrant appeals from an order of the Tribunal under section 11 of the *Ministry of Consumer and Commercial Relations Act*, the order takes effect immediately but the Tribunal may grant a stay until disposition of the appeal. 1971, c. 50, s. 23 (2), *part*; 1972, c. 1, s. 23 (5).

Further
applications

8. A further application for registration may be made upon new or other evidence or where it is clear that material circumstances have changed. R.S.O. 1970, c. 82, s. 21.

Investiga-
tion of
complaints

9.—(1) Where the Registrar receives a complaint in respect of an itinerant seller and so requests in writing, the itinerant seller shall furnish the Registrar with such information respecting the matter complained of as the Registrar requires.

Idem

(2) The request under subsection (1) shall indicate the nature of the inquiry involved.

Idem

(3) For the purposes of subsection (1), the Registrar or any person designated in writing by him may at any reasonable time enter upon the business premises of the itinerant seller to make an inspection in relation to the complaint. R.S.O. 1970, c. 82, s. 22.

10.—(1) The Registrar or any person designated by him ^{Inspection} in writing may at any reasonable time enter upon the business premises of a registered itinerant seller to make an inspection to ensure that the provisions of this Act and the regulations relating to registration and the maintenance of trust accounts are being complied with.

(2) Where the Registrar has reasonable and probable ^{Idem} grounds to believe that any person is acting as an itinerant seller while unregistered, the Registrar or any person designated by him in writing may at any reasonable time enter upon such person's business premises to make an inspection for the purpose of determining whether or not the person is in contravention of section 4. R.S.O. 1970, c. 82, s. 23.

11.—(1) Upon an inspection under section 9 or 10, the ^{Powers on inspection} person inspecting,

(a) is entitled to free access to all books of account, cash, documents, bank accounts, vouchers, correspondence and records of the person being inspected that are relevant for the purposes of the inspection; and

(b) may, upon giving a receipt therefor, remove any material referred to in clause (a) that relates to the purpose of the inspection for the purpose of making a copy thereof, provided that such copying is carried out with reasonable dispatch and the material in question is promptly thereafter returned to the person being inspected,

and no person shall obstruct the person inspecting or withhold or destroy, conceal or refuse to furnish any information or thing required by the person inspecting for the purposes of the inspection. R.S.O. 1970, c. 82, s. 24 (1); 1971, c. 50, s. 23 (4).

(2) Any copy made as provided in subsection (1) and purporting to be certified by an inspector is admissible in evidence in any action, proceeding or prosecution as *prima facie* proof of the original. R.S.O. 1970, c. 82, s. 24 (2). ^{Admissibility of copies}

12.—(1) Every itinerant seller shall, within five days ^{Notice of changes} after the event, notify the Registrar in writing of,

(a) any change in his address for service;

(b) any change in the officers in the case of a corporation or of the members in the case of a partnership.

Idem

(2) The Registrar shall be deemed to be notified under subsection (1) on the day on which he is actually notified or, where the notification is by mail, on the day of mailing. R.S.O. 1970, c. 82, s. 25.

Financial statements

13.—(1) Every itinerant seller shall, when required by the Registrar with the approval of the Director, file a financial statement showing the matters specified by the Registrar and signed by the itinerant seller and certified by a person licensed under the *Public Accountancy Act*.

R.S.O. 1980,
c. 405

Statement confidential

(2) The information contained in a financial statement filed under subsection (1) is confidential and no person shall otherwise than in the ordinary course of his duties communicate any such information or allow access to or inspection of the financial statement. R.S.O. 1970, c. 82, s. 26.

Service

14.—(1) Any notice or order required to be given or served under this Part or the regulations is sufficiently given or served if delivered personally or sent by registered mail addressed to the person to whom delivery or service is required to be made at the latest address for service appearing on the records of the Ministry. R.S.O. 1970, c. 82, s. 27 (1); 1972, c. 1, s. 1.

When service deemed made

(2) Where service is made by registered mail, the service shall be deemed to be made on the third day after the day of mailing unless the person on whom service is being made establishes that he did not, acting in good faith, through absence, accident, illness or other cause beyond his control receive the notice or order until a later date. 1971, c. 50, s. 23 (5).

Exception

(3) Notwithstanding subsections (1) and (2), the Tribunal may order any other method of service in respect of any matter before the Tribunal. R.S.O. 1970, c. 82, s. 27 (3).

Restraining orders

15.—(1) Where it appears to the Director that any person does not comply with any provision of this Part, the regulations or an order made under this Part, notwithstanding the imposition of any penalty in respect of such non-compliance and in addition to any other rights he may have, the Director may apply to a judge of the High Court for an order directing such person to comply with such provision, and upon the application the judge may make such order or such other order as the judge thinks fit.

(2) An appeal lies to the Divisional Court from an order made under subsection (1). R.S.O. 1970, c. 82, s. 28.

16.—(1) Every person who, knowingly,

Offences

- (a) furnishes false information in any application under this Part or in any statement or return required to be furnished under this Part or the regulations; or
- (b) fails to comply with any order, direction or other requirement made under this Part or section 38,

is guilty of an offence punishable under section 39, but no proceeding under clause (a) shall be commenced more than one year after the facts upon which the proceeding is based first came to the knowledge of the Director. R.S.O. 1970, c. 82, s. 29 (1).

(2) A statement as to,

Certificate
as evidence

- (a) the registration or non-registration of any person;
- (b) the filing or non-filing of any document or material required or permitted to be filed with the Registrar;
- (c) the time when the facts upon which proceedings are based first came to the knowledge of the Director;
or
- (d) any other matter pertaining to such registration, non-registration, filing or non-filing,

purporting to be certified by the Director is, without proof of the office or signature of the Director, receivable in evidence as *prima facie* proof of the facts stated therein for all purposes in any action, proceeding or prosecution. R.S.O. 1970, c. 82, s. 29 (2); 1971, c. 50, s. 23 (6).

17.—(1) Each person employed in the administration of this Act, including any person making an inspection under section 9, 10 or 11 shall preserve secrecy in respect of all matters that come to his knowledge in the course of his duties, employment or inspection and shall not communicate any such matters to any other person except,

Matters
confidential

- (a) as may be required in connection with the administration of this Act and the regulations or any proceedings under this Act or the regulations; or
- (b) to his counsel; or

- (c) with the consent of the person to whom the information relates.

Testimony
in civil suit

(2) No person to whom subsection (1) applies shall be required to give testimony in any civil suit or proceeding with regard to information obtained by him in the course of his duties, employment, inquiry, inspection or investigation except in a proceeding under this Act or the regulations. 1971, c. 50, s. 23 (7).

PART II

EXECUTORY CONTRACTS

Application
of Part

18. This Part applies to executory contracts for the sale of goods or services where the purchase price, excluding the cost of borrowing, exceeds \$50. R.S.O. 1970, c. 82, s. 30.

Form of
executory
contract

19.—(1) Every executory contract, other than an executory contract under an agreement for variable credit, shall be in writing and shall contain,

- (a) the name and address of the seller and the buyer;
- (b) a description of the goods or services sufficient to identify them with certainty;
- (c) the itemized price of the goods or services and a detailed statement of the terms of payment;
- (d) where credit is extended, a statement of any security for payment under the contract, including the particulars of any negotiable instrument, conditional sale agreement, chattel mortgage or any other security;
- (e) where credit is extended, the statement required to be furnished by section 24;
- (f) any warranty or guarantee applying to the goods or services and, where there is no warranty or guarantee, a statement to this effect; and
- (g) any other matter required by the regulations.

Validity

(2) An executory contract is not binding on the buyer unless the contract is made in accordance with this Part and the regulations and is signed by the parties, and a duplicate original copy thereof is in the possession of each of the parties thereto.

(3) Where the amount to be paid by a buyer under an executory contract is determined after an allowance for a trade-in and is stated in the contract to be subject to adjustment after the existence or amount of liens against the trade-in is ascertained or confirmed, the statement of the terms of payment and the statement of the cost of credit shall be based upon the amount as determined upon the information provided by the buyer but, upon any subsequent adjustment, the percentage rate by which the cost of borrowing is expressed, the total number of instalments required to pay the total indebtedness or the price shown in the contract shall not be changed. R.S.O. 1970, c. 82, s. 31.

20. Where a trade-in is delivered or money is paid, whether by way of deposit or otherwise, on account of the proposed purchase of goods or services but no binding contract is entered into in respect of the goods and no delivery of the goods or any part thereof has been made to the buyer or no performance of the services has been made, the seller shall upon the request of the buyer return such trade-in or refund in full the moneys so paid, as the case may be. R.S.O. 1970, c. 82, s. 32.

21.—(1) Where a seller solicits, negotiates or arranges for the signing by a buyer of an executory contract at a place other than the seller's permanent place of business, the buyer may rescind the contract by delivering a notice of rescission in writing to the seller within two days after the duplicate original copy of the contract first comes into the possession of the buyer, and the buyer is not liable for any damages in respect of such rescission.

(2) Where a buyer rescinds a contract under subsection (1),

(a) the buyer shall immediately return any goods received under the contract and the seller shall bear the expense of the return, not exceeding the expense of returning the goods from the place where the buyer received their delivery; and

(b) the seller shall return any moneys received or realized in respect of the contract, whether from the buyer or any other person, and shall return any trade-in received under the contract.

(3) Where part of the consideration for the sale of goods is a trade-in, the title to the trade-in does not pass to the seller until the two-day period mentioned in subsection (1) has expired without rescission of the contract.

Delivery
of notice

(4) A notice of rescission may be delivered personally or sent by registered mail addressed to the person to whom delivery is required to be made at the address shown in the contract, and delivery by registered mail shall be deemed to have been made at the time of mailing. R.S.O. 1970, c. 82, s. 33.

Lien on
other goods
not enforce-
able

22. Any provision in any executory contract or in any security agreement incidental thereto under which the seller may acquire title to, possession of or any rights in any goods of the buyer, other than the goods passing to the buyer under the contract, is not enforceable. R.S.O. 1970, c. 82, s. 34.

No re-
possession
after two-
thirds paid
except by
leave of
judge

23.—(1) Where a buyer under an executory contract has paid two-thirds or more of the purchase price of the goods as fixed by the contract, any provision in the contract, or in any security agreement incidental thereto, under which the seller may retake possession of or resell the goods upon default in payment by the buyer is not enforceable except by leave of a judge of a county or district court.

Powers of
judge

(2) Upon an application for leave under subsection (1), the judge may, in his absolute discretion, grant or refuse leave or grant leave upon such terms and conditions as he considers advisable. R.S.O. 1970, c. 82, s. 35.

PART III

CREDIT TRANSACTIONS

Disclosure
of cost of
borrowing

24. Except as provided in section 25, every lender shall furnish to the borrower, before giving the credit, a clear statement in writing showing,

(a) the sum,

(i) expressed as one sum in dollars and cents, actually received in cash by the borrower, plus insurance or official fees, if any, actually paid by the lender, or

(ii) where the lender is a seller, being the amount of the cash price of the goods or services, including any insurance or official fees;

(b) where the lender is a seller, the sums, if any, actually paid as a down payment or credited in respect of a trade-in, or paid or credited for any other reason;

(c) where the lender is a seller, the amount by which the sum stated under subclause (a) (ii) exceeds the sum stated under clause (b);

(d) the cost of borrowing expressed as one sum in dollars and cents;

(e) the percentage that the cost of borrowing bears to the sum stated,

(i) under subclause (a) (i), where the lender is not a seller, or

(ii) under clause (c), where the lender is a seller,

expressed as an annual rate applied to the unpaid balance thereof from time to time, calculated and expressed in the manner prescribed by the regulations;

(f) the amount, if any, charged for insurance;

(g) the amount, if any, charged for official fees; and

(h) the basis upon which additional charges are to be made in the event of default. R.S.O. 1970, c. 82, s. 36.

25.—(1) In this section, “period” means a period of time of not less than four weeks and not more than five weeks in duration. Interpre-
tation

(2) A lender extending variable credit shall, Variable
credit

(a) before agreeing to extend variable credit, furnish the borrower with a clear statement in writing setting forth the cost of borrowing in respect of the unpaid balances from time to time,

(i) stated as an annual percentage, or scale of annual percentages, of such balance charged at the end of each period, subject to a minimum dollars-and-cents charge, if any, and

(ii) stated in dollars and cents in a schedule of fixed amounts of outstanding balances, and the corresponding charges for the cost of borrowing; and

(b) at the end of each period during the extension of credit, furnish the borrower with a clear statement in writing showing,

(i) the outstanding balance in the account of the borrower at the beginning of the period,

- (ii) the amount and date of each extension of credit to the borrower during the period and the identity of the goods or services in respect of which the credit was extended,
- (iii) the amount of each sum received or credited to the account of the borrower during the period, and the date and occasion thereof,
- (iv) the cost of borrowing, expressed as one sum in dollars and cents, charged during the period,
- (v) the outstanding balance in the account of the borrower at the end of the period, and
- (vi) the statement referred to in clause (a). R.S.O. 1970, c. 82, s. 37.

Manner of
applying
percentage
rate

26. The percentage rate by which the cost of borrowing is expressed shall be applied in the manner prescribed by the regulations. R.S.O. 1970, c. 82, s. 38.

When
costs of
borrowing
not
recoverable

27. A borrower is not liable to pay a lender as the cost of borrowing any sum in excess of the sum shown in the statement required by section 24 or 25 in respect of the transaction. R.S.O. 1970, c. 82, s. 39.

Prepayment

28. Where the sum remaining to be paid under an agreement for credit is paid in full before the term of the agreement has expired,

- (a) the borrower is entitled to a proportionate credit in respect of the cost of borrowing; and
- (b) the lender is entitled to a proportionate part of the cost of lending,

in an amount determined in the manner prescribed by the regulations. R.S.O. 1970, c. 82, s. 40.

Advertising
of cost of
borrowing

29.—(1) Subject to the regulations, no lender shall represent, either orally or in print, or by radio or television broadcast, his charge for credit or cause such charge to be so represented unless the representation includes the full cost of borrowing and is expressed in the manner required by section 24 or 25.

Advertising
of other
terms of
credit

(2) Subject to the regulations, where a lender represents or causes to be represented in a printing, broadcast or other publication any terms of the credit agreement other than

that referred to in subsection (1), the lender shall also include or cause to be included all other relevant terms of the credit transaction, including,

- (a) the sum to be actually received in cash by the borrower or the actual cash price of the goods;
 - (b) the amount of the down payment;
 - (c) the amount of each instalment; and
 - (d) the number of instalments required to repay the total indebtedness, including the cost of borrowing.
- R.S.O. 1970, c. 82, s. 41.

30.—(1) Where a lender assigns a negotiable instrument given to secure credit, he shall deliver to the assignee with the negotiable instrument a copy of the statement required by section 24 and, where the lender is a seller, a copy of the contract of sale.

Assignment
of negotiable
instrument

(2) Every assignee of a negotiable instrument who reassigns the instrument shall deliver to his assignee the statement and contract of sale, if any, received by him in respect of the instrument.

Reassign-
ment of
negotiable
instrument

(3) Where an assignee of a negotiable instrument to which subsection (2) applies is entitled to recover on the instrument from the maker, the maker is entitled to be indemnified therefor by any assignor of the instrument who has not complied with subsection (1) or (2) as the case may be. R.S.O. 1970, c. 82, s. 42.

Indemnity

31.—(1) The assignee of any rights of a lender has no greater rights than and is subject to the same obligations, liabilities and duties as the assignor, and the provisions of this Act apply equally to such assignee.

Obligations
of assignee
of lender

(2) Notwithstanding subsection (1), a borrower shall not recover from, or be entitled to set off against, an assignee of the lender an amount greater than the balance owing on the contract at the time of the assignment, and, if there have been two or more assignments, the borrower shall not recover from an assignee who no longer holds the benefit of the contract an amount that exceeds the payments made by the borrower to that assignee. 1971, c. 24, s. 1 (1).

Idem

32.—(1) Where an assignor of a negotiable instrument is convicted of a contravention of section 30, the provincial

Order to pay
indemnity

offences court making the conviction may order that the person convicted is liable to indemnify the maker under subsection 30(3).

Filing
indemnity
order in
court

(2) Where an indemnity order is made under subsection (1) in favour of a person who is or becomes liable under a judgment of a court to an assignee of the negotiable instrument in respect of which the indemnity order was made, the person entitled to the indemnity may file the indemnity order in the court office of the court in which the judgment was issued.

Default
judgment

(3) Upon the filing of the indemnity order, the registrar or clerk of the court shall issue a default judgment in favour of the person entitled to the indemnity and against the person required by the indemnity order to give the indemnity, and the amount of the default judgment shall be the amount of the judgment referred to in subsection (1) and costs together with the costs of issuing the default judgment, or such less amount as the person entitled to the indemnity by praecipe requests.

Setting aside
or variation
of default
judgment

(4) Upon application therefor, the court in which the default judgment is issued may set aside the default judgment or may determine the amount of the indemnity or make an order of reference for the purpose and may vary the amount of the default judgment. R.S.O. 1970, c. 82, s. 43.

PART IV

GENERAL

Agreements
and waivers
contrary
to Act

33. This Act applies notwithstanding any agreement or waiver to the contrary. R.S.O. 1970, c. 82, s. 44.

"Consumer
sale"
defined

34.—(1) In this section, "consumer sale" means a contract for the sale of goods made in the ordinary course of business to a purchaser for his consumption or use, but does not include a sale,

- (a) to a purchaser for resale;
- (b) to a purchaser whose purchase is in the course of carrying on business;
- (c) to an association of individuals, a partnership or a corporation;
- (d) by a trustee in bankruptcy, a receiver, a liquidator or a person acting under the order of a court.

(2) The implied conditions and warranties applying to the sale of goods by virtue of the *Sale of Goods Act* apply to goods sold by a consumer sale and any written term or acknowledgment, whether part of the contract of sale or not, that purports to negative or vary any of such implied conditions and warranties is void and, if a term of a contract, is severable therefrom, and such term or acknowledgment shall not be evidence of circumstances showing an intent that any of the implied conditions and warranties are not to apply. 1971, c. 24, s. 2 (1).

Implied
warranties
R.S.O. 1980,
c. 462

35. The rights of a buyer or borrower under this Act are in addition to any rights of the buyer or borrower under any other Act or by the operation of law, and nothing in this Act shall be construed to derogate from such rights. R.S.O. 1970, c. 82, s. 45.

Rights of
buyer and
borrower
preserved

36.—(1) In this section,

Interpre-
tation

- (a) “credit” means the advancing of money, goods or services to or on behalf of another for repayment at a later time, whether or not there is a cost of borrowing, and includes variable credit;
- (b) “unsolicited goods” means personal property furnished to a person who did not request it and a request shall not be inferred from inaction or the passing of time alone, but does not include,
 - (i) personal property that the recipient knows or ought to know is intended for another person, or
 - (ii) personal property supplied under a contract in writing to which the recipient is a party that provides for the periodic supply of personal property to the recipient without further solicitation.

(2) No action shall be brought by which to charge any person upon any arrangement for the extension of credit evidenced by a credit card unless the person to whom credit is to be extended requested or accepted the credit arrangement and card in writing, and the obtaining of credit by the person named in the credit card shall be deemed to constitute such written acceptance by him.

Credit
arrangement

(3) No action shall be brought by which to charge any person for payment in respect of unsolicited goods notwithstanding their use, misuse, loss, damage or theft.

Use of
unsolicited
goods

Relief
from legal
obligations

(4) Except as provided in this section, the recipient of unsolicited goods or of a credit card that has not been requested or accepted in accordance with subsection (2) has no legal obligation in respect of their use or disposal. R.S.O. 1970, c. 82, s. 46 (1-4).

Interpre-
tation

37.—(1) For the purposes of this section in addition to the meanings defined in clauses 1 (*d*) and (*u*),

(a) “buyer” includes a person who hires or leases goods for consumption where,

(i) he has an option to purchase the goods, or

(ii) upon compliance with agreed terms, he will become the owner of the goods or will be entitled to keep them without further payment;

(b) “seller” includes a person who is in the business of letting goods, by hire or lease, to buyers.

Referral
selling

(2) No seller shall hold out to a buyer or prospective buyer any advantage, benefit or gain to the buyer or prospective buyer for doing anything that purports to assist the seller in finding or selling to another prospective buyer.

Contracts
not binding
on buyer

(3) Notwithstanding the provision for or imposition of a penalty under this Act, any contract entered into following the holding out referred to in subsection (2) is not binding on the buyer. 1972, c. 53, s. 1.

False
advertising

38. Where the Registrar believes on reasonable and probable grounds that a seller or lender is making false, misleading or deceptive statements in any advertisement, circular, pamphlet or similar material, the Registrar may order the immediate cessation of the use of such material and section 7 applies with necessary modifications to the order in the same manner as to a proposal by the Registrar to refuse registration and the order of the Registrar shall take effect immediately, but the Tribunal may grant a stay until the Registrar's order becomes final. 1971, c. 50, s. 23 (8).

Offence

39.—(1) Every person who contravenes this Act or the regulations and every director or officer of a corporation who knowingly concurs in a contravention of this Act or the regulations are guilty of an offence and on conviction

are liable to a fine of not more than \$2,000 or to imprisonment for a term of not more than one year, or to both.

(2) Where a corporation is convicted of an offence under subsection (1), the maximum penalty that may be imposed upon the corporation is \$25,000 and not as provided therein. ^{Corporations}

(3) Subject to subsection 16 (1), no proceeding under this section shall be instituted more than three years after the time when the subject-matter of the proceeding arose. ^{Limitation}

(4) For the purposes of this section, an error or omission in any form prescribed or information required to be given by this Act or the regulations shall not be deemed to be in contravention of this Act or the regulations where the person against whom the contravention is alleged proves that the error or omission is a *bona fide* accidental or clerical error or omission or beyond his control. ^{Deviations from forms} R.S.O. 1970, c. 82, s. 48.

40. The Lieutenant Governor in Council may make ^{Regulations} regulations,

- (a) governing applications for registration or renewal of registration of itinerant sellers and prescribing terms and conditions of registration;
- (b) requiring itinerant sellers to make returns and furnish information to the Registrar;
- (c) prescribing further procedures respecting the conduct of matters coming before the Tribunal;
- (d) providing for the responsibility for payment of witness fees and expenses in connection with proceedings before the Tribunal and prescribing the amounts thereof;
- (e) requiring itinerant sellers or any class thereof to be bonded in such form and terms and with such collateral security as are prescribed, and providing for the forfeiture of bonds and the disposition of the proceeds;
- (f) requiring the payment of fees on application for registration as an itinerant seller or for renewal of such registration, and prescribing the amounts thereof;

- (g) prescribing the form of executory contracts and statement of the cost of borrowing and the size, type and colour of lettering used in any provision thereof;
- (h) requiring and governing the maintenance of trust accounts by sellers or any class thereof, and prescribing the moneys that shall be held in trust and the terms and conditions thereof;
- (i) prescribing the manner in which the cost of borrowing stated as a percentage shall be calculated, expressed and applied;
- (j) prescribing the manner of determining the apportionment of the cost of borrowing for the purposes of section 28;
- (k) exempting any class of buyer, seller, itinerant seller, lender or borrower from the application of this Act or any provision thereof;
- (l) prescribing forms for the purposes of this Act and providing for their use;
- (m) requiring any information required to be furnished or contained in any form or return to be verified by affidavit;
- (n) defining any expression used in Part II or Part III of this Act;
- (o) governing the advertising by lenders of the cost of borrowing or other terms of credit. R.S.O. 1970, c. 82, s. 49; 1971, c. 50, s. 23 (9).

CHAPTER 88

Consumer Protection Bureau Act

1.—(1) There shall be a branch of the Ministry of Consumer and Commercial Relations, to be known as the Consumer Protection Bureau, which shall consist of the Registrar of the Consumer Protection Bureau and such other officers and employees as are considered necessary. R.S.O. 1970, c. 83, s. 1 (1); 1972, c. 1, s. 36.

Consumer
Protection
Bureau
established

(2) The Consumer Protection Bureau shall,

Duties of
Consumer
Protection
Bureau

- (a) disseminate information for the purpose of educating and advising consumers respecting consumer protection and lending and borrowing practices;
- (b) receive and investigate complaints of conduct in contravention of legislation for the protection of consumers;
- (c) enforce legislation for the protection of consumers; and
- (d) perform any other duties given to it by any Act, R.S.O. 1970, c. 83, s. 1 (2); 1973, c. 8, s. 1.

2. The moneys required for the purposes of this Act shall be paid out of the moneys appropriated therefor by the Legislature. R.S.O. 1970, c. 83, s. 2.

Moneys

CHAPTER 89

Consumer Reporting Act

1.—(1) In this Act,

Interpre-
tation

- (a) “consumer” means a natural person but does not include a person engaging in a transaction, other than relating to employment, in the course of carrying on a business, trade or profession;
- (b) “consumer report” means a written, oral or other communication by a consumer reporting agency of credit information or personal information, or both, pertaining to a consumer for consideration in connection with a purpose set out in clause 8 (1) (d);
- (c) “consumer reporting agency” means a person who for gain or profit or on a regular co-operative non-profit basis furnishes consumer reports;
- (d) “credit information” means information about a consumer as to name, age, occupation, place of residence, previous places of residence, marital status, spouse’s name and age, number of dependants, particulars of education or professional qualifications, places of employment, previous places of employment, estimated income, paying habits, outstanding debt obligations, cost of living obligations and assets;
- (e) “Director” means the Executive Director of the Business Practices Division of the Ministry;
- (f) “employment purposes” means the purposes of taking into employment, granting promotion, reassigning employment duties or retaining as an employee;
- (g) “file”, when used as a noun, means all of the information pertaining to a consumer that is recorded and retained by a consumer reporting agency, regardless of the manner or form in which the information is stored;

- (h) "Minister" means the Minister of Consumer and Commercial Relations;
- (i) "person" means a natural person, an association of natural persons, a partnership or a corporation;
- (j) "personal information" means information other than credit information about a consumer's character, reputation, health, physical or personal characteristics or mode of living or about any other matter concerning the consumer;
- (k) "personal information investigator" means a person who obtains or reports personal information to a consumer reporting agency for hire or reward;
- (l) "Registrar" means the Registrar of Consumer Reporting Agencies;
- (m) "regulations" means the regulations made under this Act;
- (n) "Tribunal" means The Commercial Registration Appeal Tribunal under the *Ministry of Consumer and Commercial Relations Act*.

R.S.O. 1980,
c. 274

Agreements
to waive

(2) This Act applies notwithstanding any agreement or waiver to the contrary. 1973, c. 97, s. 1.

Registrar

2.—(1) There shall be a Registrar of Consumer Reporting Agencies who shall be appointed by the Lieutenant Governor in Council.

Duties

(2) The Registrar may exercise the powers and shall perform the duties conferred or imposed upon him by or under this Act under the supervision of the Director. 1973, c. 97, s. 2.

Registration
required

3. No person shall conduct or act as a consumer reporting agency or act as a personal information investigator unless he is registered by the Registrar under this Act. 1973, c. 97, s. 3.

Registration
of agencies

4.—(1) An applicant is entitled to registration or renewal of registration as a consumer reporting agency by the Registrar except where,

- (a) having regard to his financial position, the applicant cannot reasonably be expected to be financially responsible in the conduct of his business; or
- (b) the past conduct of the applicant affords reasonable grounds for belief that he will not carry on business in accordance with law and with integrity and honesty; or
- (c) the applicant is a corporation and,
 - (i) having regard to its financial position, it cannot reasonably be expected to be financially responsible in the conduct of its business, or
 - (ii) the past conduct of its officers or directors affords reasonable grounds for belief that its business will not be carried on in accordance with law and with integrity and honesty; or
- (d) the applicant is carrying on activities that are, or will be, if the applicant is registered, in contravention of this Act or the regulations.

(2) An applicant is entitled to registration or renewal of registration as a personal information investigator by the Registrar except where the past conduct of the applicant affords reasonable grounds for belief that he will not carry out his duties in accordance with law and with integrity and honesty.

(3) A registration is subject to such terms and conditions to give effect to the purposes of this Act as are imposed by the Tribunal or prescribed by the regulations.

(4) A registration is not transferable. 1973, c. 97, s. 4.

5.—(1) Subject to section 6, the Registrar may refuse to register an applicant where in the Registrar's opinion the applicant is disentitled to registration under section 4.

(2) Subject to section 6, the Registrar may refuse to renew or may suspend or revoke a registration for any reason that would disentitle the registrant to registration under section 4 if he were an applicant, or where the registrant is in breach of a term or condition of the registration. 1973, c. 97, s. 5.

6.—(1) Where the Registrar proposes to refuse to grant or renew a registration or proposes to suspend or revoke

a registration, he shall serve notice of his proposal, together with written reasons therefor, on the applicant or registrant.

Notice
requiring
hearing

(2) A notice under subsection (1) shall inform the applicant or registrant that he is entitled to a hearing by the Tribunal if he mails or delivers, within fifteen days after the notice under subsection (1) is served on him, notice in writing requiring a hearing to the Registrar and the Tribunal, and he may so require such a hearing.

Powers of
Registrar
where no
hearing

(3) Where an applicant or registrant does not require a hearing by the Tribunal in accordance with subsection (2), the Registrar may carry out the proposal stated in his notice under subsection (1).

Powers of
Tribunal

(4) Where an applicant or registrant requires a hearing by the Tribunal in accordance with subsection (2), the Tribunal shall appoint a time for and hold the hearing and, on the application of the Registrar at the hearing, may by order direct the Registrar to carry out his proposal or refrain from carrying out his proposal and to take such action as the Tribunal considers the Registrar ought to take in accordance with this Act and the regulations, and for such purposes the Tribunal may substitute its opinion for that of the Registrar.

Conditions
of order

(5) The Tribunal may attach such terms and conditions to its order or to the registration as it considers proper to give effect to the purposes of this Act.

Parties

(6) The Registrar, the applicant or registrant who has required the hearing and such other persons as the Tribunal may specify are parties to proceedings before the Tribunal under this section.

Voluntary
cancellation

(7) Notwithstanding subsection (1), the Registrar may cancel a registration upon the request in writing of the registrant in the prescribed form surrendering his registration.

Continuance
pending
renewal

(8) Where, within the time prescribed therefor or, if no time is prescribed, before expiry of his registration, a registrant has applied for renewal of his registration and paid the prescribed fee, his registration shall be deemed to continue,

(a) until the renewal is granted; or

(b) where he is served with notice that the Registrar proposes to refuse to grant the renewal, until the time for giving notice requiring a hearing has expired

and, where a hearing is required, until the Tribunal has made its order.

(9) Notwithstanding that a registrant appeals from an order of the Tribunal under section 11 of the *Ministry of Consumer and Commercial Relations Act*, the order takes effect immediately, but the Tribunal may grant a stay until disposition of the appeal. 1973, c. 97, s. 6.

Order
effective,
stay
R.S.O. 1980,
c. 274

7. A further application for registration may be made upon new or other evidence or where it is clear that material circumstances have changed. 1973, c. 97, s. 7.

Further
applications

8.—(1) No consumer reporting agency and no officer or employee thereof shall knowingly furnish any information from the files of the consumer reporting agency except,

To whom
reports may
be given

(a) in response to the order of a court having jurisdiction to issue such an order;

(b) in accordance with the written instructions of the consumer to whom the information relates;

(c) in response to an order or direction made under this Act; or

(d) in a consumer report given to a person who it has reason to believe,

(i) intends to use the information in connection with the extension of credit to or the purchase or collection of a debt of the consumer to whom the information pertains,

(ii) intends to use the information in connection with the entering into or renewal of a tenancy agreement,

(iii) intends to use the information for employment purposes,

(iv) intends to use the information in connection with the underwriting of insurance involving the consumer,

(v) intends to use the information to determine the consumer's eligibility for any matter under a statute or regulation where the information is relevant to the requirement prescribed by law,

- (vi) otherwise has a direct business need for the information in connection with a business or credit transaction involving the consumer, or
- (vii) intends to use the information for the purpose of up-dating the information in a consumer report previously given to him for one of the reasons referred to in subclauses (i) to (vi).

Idem (2) No person shall knowingly obtain any information from the files of a consumer reporting agency respecting a consumer except for the purposes referred to in subsection (1).

Information as to identities (3) Notwithstanding subsections (1) and (2), a consumer reporting agency may furnish identifying information respecting any consumer, limited to his name, address, former addresses, places of employment, or former places of employment, to the Government of Ontario or of Canada or any province thereof or of any agency of such government or the government of any municipality in Canada or any agency thereof or to any police officer acting in the course of his duties, notwithstanding that such information is not to be used for a purpose mentioned in subsection (1).

Sale of files (4) No person who is or has been registered as a consumer reporting agency shall sell, lease or transfer title to its files or any of them except to a consumer reporting agency registered under this Act. 1973, c. 97, s. 8.

Procedures of agencies **9.**—(1) Every consumer reporting agency shall adopt all procedures reasonable for ensuring accuracy and fairness in the contents of its consumer reports.

Information included in consumer report (2) A consumer reporting agency shall not report,

- (a) any information that is not stored in a form capable of being produced under section 11;
- (b) any information that is not extracted from information appearing in files stored or collected in a repository located in Canada regardless of whether or not the information was obtained from a source outside Canada, except where the consumer report is in writing and contains the substance of any prior information orally acquired that conforms to the requirements of this Act.

Idem (3) A consumer reporting agency shall not include in a consumer report,

- (a) any credit information based on evidence that is not the best evidence reasonably available;

- (b) any unfavourable personal information unless it has made reasonable efforts to corroborate the evidence on which the personal information is based, and the lack of corroboration is noted with and accompanies the information;
- (c) information as to judgments after seven years after the judgment was given, unless the creditor or his agent confirms that it remains unpaid in whole or in part, and such confirmation appears in the file;
- (d) information as to any judgment against the consumer unless mention is made of the name and, where available, the address of the judgment creditor or his agent as given at the date of entry of the judgment and the amount;
- (e) information as to the bankruptcy of the consumer after seven years from the date of the discharge except where the consumer has been bankrupt more than once;
- (f) information regarding any judgments, collections or debts that on their face are statute barred unless it is accompanied by evidence appearing in the file that recovery is not barred by the expiration of a limitation period;
- (g) information as to the payment or non-payment of taxes or lawfully imposed fines after seven years;
- (h) information as to convictions for crimes, after seven years from the date of conviction or, where the conviction resulted in imprisonment, from the date of release or parole, provided information as to convictions for crimes shall not be reported if at any time it is learned that after a conviction an absolute discharge or a full pardon has been granted;
- (i) information regarding writs that are more than seven years old or writs that were issued against the consumer more than twelve months prior to the making of the report unless the consumer reporting agency has ascertained the current status of the action and has a record of this on file;
- (j) information regarding any criminal charges against the consumer where the charges have been dismissed, set aside or withdrawn;
- (k) any other adverse item of information where more than seven years have expired since the information was acquired or last reaffirmed;
- (l) information as to race, creed, colour, sex, ancestry, ethnic origin, or political affiliation; or

(m) any information given orally in the consumer report unless the content of the oral report is recorded in the file;

Maintenance
of files

(4) Every consumer reporting agency shall maintain in its file respecting a person all the material and information of which the person is entitled to disclosure under section 11. 1973, c. 97, s. 9.

Disclosure
of report
on request

10.—(1) Every person shall, where requested by a consumer in writing or personally, inform the consumer whether or not a consumer report respecting him has been or is to be referred to in connection with any specified transaction or matter in which such person is engaged, and, if so, of the name and address of the consumer reporting agency supplying the report.

Notice of
intention
to procure
consumer
report

(2) No person shall procure from a consumer reporting agency or cause it to prepare a consumer report containing personal information respecting a consumer unless he notifies the consumer of the fact in writing before the report is requested and, where the consumer so requests in writing or personally, he shall inform the consumer of the name and address of the consumer reporting agency supplying the report.

Idem

(3) Where a person proposes to extend credit to a consumer and a consumer report containing credit information only is being or may be referred to in connection with the transaction, he shall give notice of the fact to the consumer in writing at the time of the application for credit, or if the application is made orally, orally at the time of the application for credit.

Assignee
as creditor

(4) Where, before extending credit, the proposed creditor obtains the acceptance or refusal of an assignment or proposed assignment of the credit transaction by an assignee or proposed assignee, subsection (3) applies to the assignee or proposed assignee in the same manner as to the person proposing to extend credit, but the giving of a notice under subsection (3) by a person proposing to extend credit or under this subsection by his assignee or proposed assignee shall be deemed to be sufficient notice by both.

Limitation
on divulgence
of
information

(5) No person extending credit to a consumer shall divulge to other credit grantors or to a consumer reporting agency any personal information respecting the consumer except with the consent of the consumer or on his referral unless he notifies the consumer in writing at the time of the application for credit that he intends to do so.

Form of
notice

(6) Any notice referred to in this section shall be clearly set forth in bold type or underlined and in letters not less than ten point in size.

(7) Where a benefit is denied to a consumer or a charge ^{Adverse action} to a consumer is increased either wholly or partly because of information received from a consumer reporting agency or a person other than a consumer reporting agency, the user of such information shall deliver to the consumer at the time such action is communicated to the consumer notice of the fact and, upon the request of the consumer made within sixty days after such notice, shall inform the consumer,

- (a) of the nature and source of the information where the information is furnished by a person other than a consumer reporting agency; or
- (b) of the name and address of the consumer reporting agency, where the information is furnished by a consumer reporting agency,

and the notice required to be given by the user under this subsection shall contain notice of the consumer's right to request the information referred to in clauses (a) and (b) and the time limited therefor. 1973, c. 97, s. 10.

11.—(1) Every consumer reporting agency shall, at the ^{Right of consumer to disclosure} written request of a consumer and during normal business hours, clearly and accurately disclose to the consumer, without charge,

- (a) the nature and substance of all information in its files pertaining to the consumer at the time of the request;
- (b) the sources of credit information;
- (c) the names of the recipients of any consumer report pertaining to the consumer that it has furnished,
 - (i) containing personal information, within the one year period preceding the request, and
 - (ii) containing credit information, within the six month period preceding the request;
- (d) copies of any written consumer report pertaining to the consumer made to any other person or, where the report was oral, particulars of the content of such oral report, furnished,
 - (i) where the report contains personal information, within the one year period preceding the request, and

- (ii) where the report contains credit information, within the six month period preceding the request,

and shall inform the consumer of his right to protest any information contained in the file under sections 12 and 13 and the manner in which a protest may be made.

Exception for
certain
medical
information

(2) A consumer reporting agency shall withhold from the disclosures required by subsection (1) any medical information obtained with the written consent of the consumer which the consumer's own physician has specifically requested in writing be withheld from the consumer in his own best interest.

Method of
disclosure

(3) The disclosures required under this section shall be made to the consumer,

(a) in person if he appears in person and furnishes proper identification;

(b) by telephone if he has made a written request, with sufficient identification, for telephone disclosure and the toll charge, if any, for the telephone call is prepaid by or charged directly to the consumer.

Idem

(4) Every consumer reporting agency shall provide trained personnel to explain to the consumer any information furnished to him under this section.

Consumer's
adviser

(5) The consumer shall be permitted to be accompanied by one other person of his choosing to whom the consumer reporting agency may be required by the consumer to disclose his file.

Abstract

(6) The consumer reporting agency shall permit the consumer to whom information is disclosed under this section to make an abstract thereof.

Identification

(7) A consumer reporting agency shall require reasonable identification of the consumer and a person accompanying him before making disclosures under this section.

No
conditions

(8) A consumer reporting agency shall not require a consumer to give any undertaking or waive or release any right as a condition precedent to his access to his file under this section. 1973, c. 97, s. 11.

Correction
of errors

12.—(1) Where a consumer disputes the accuracy or completeness of any item of information contained in his file, the consumer reporting agency within a reasonable time shall

use its best endeavours to confirm or complete the information and shall correct, supplement or delete the information in accordance with good practice.

(2) Where a consumer reporting agency corrects, supplements or deletes information under subsection (1), the consumer reporting agency shall furnish notification of the correction, supplement or deletion to,

- (a) all persons who have been supplied with a consumer report based on the unamended file within sixty days before the correction, supplement or deletion is made; and
- (b) the persons specifically designated by the consumer from among those who have been supplied with a consumer report based on the unamended file,
 - (i) where the report contains personal information, within the one year period preceding the correction, supplement or deletion, and
 - (ii) where the report contains credit information, within the six month period preceding the correction, supplement or deletion. 1973, c. 97, s. 12.

13.—(1) The Registrar may order a consumer reporting agency to amend or delete any information, or by order restrict or prohibit the use of any information, that in his opinion is inaccurate or incomplete or that does not comply with the provisions of this Act or the regulations.

(2) The Registrar may order a consumer reporting agency to furnish notification to any person who has received a consumer report of any amendments, deletions, restrictions or prohibitions imposed by the Registrar.

(3) Where the consumer or consumer reporting agency considers himself aggrieved by a decision of the Registrar under this section, he may apply to the Tribunal for a hearing and section 6 applies, with necessary modifications, to the decision in the same manner as to a proposal by the Registrar under section 6 and as if the consumer and the consumer reporting agency each were an applicant or registrant, except that an order of the Registrar may be issued and take effect immediately, but the Tribunal may grant a stay until the order becomes final.

(4) At a hearing before the Tribunal for the purposes of subsection (3), the Tribunal may require the consumer reporting agency to disclose the source of any information contained in its files. 1973, c. 97, s. 13.

Notice of
material
changes

14. Every consumer reporting agency shall, within five days after the event, notify the Registrar in writing of,

- (a) any change in its address for service;
- (b) any change in the officers in the case of a corporation or of the members in the case of a partnership; and
- (c) any commencement or termination of employment of a personal information investigator. 1973, c. 97, s. 14.

Investigation
of
complaints

15.—(1) Where the Registrar receives a written complaint in respect of a consumer reporting agency and so directs in writing, the consumer reporting agency shall furnish the Registrar with such information respecting the matter complained of as the Registrar requires.

Idem

(2) The direction under subsection (1) shall indicate the nature of the inquiry involved.

Idem

(3) For the purposes of subsection (1), the Registrar or any person designated in writing by him may on notice at any reasonable time enter upon the business premises of the consumer reporting agency to make an inspection in relation to the complaint. 1973, c. 97, s. 15.

Investigation
on order
of Minister

16. The Minister may by order appoint a person to make an investigation into any matter to which this Act applies as may be specified in the Minister's order and the person appointed shall report the result of his investigation to the Minister, and for the purposes of the investigation, the person making it has the powers of a commission under Part II of the *Public Inquiries Act*, which Part applies to such investigation as if it were an inquiry under that Act. 1973, c. 97, s. 16.

R.S.O. 1980,
c. 411

Investigation
by Director

17.—(1) Where, upon a statement made under oath, the Director believes on reasonable and probable grounds that any person has,

- (a) contravened any of the provisions of this Act or the regulations; or
- (b) committed an offence under the *Criminal Code* (Canada) or under the law of any jurisdiction that is relevant to his fitness for registration under this Act,

R.S.C. 1970,
c. C-34

the Director may by order appoint one or more persons to make an investigation to ascertain whether such a contravention of the Act or regulation or the commission of such an offence has occurred and the person appointed shall report the result of his investigation to the Director.

(2) For purposes relevant to the subject-matter of an investigation under this section and, notwithstanding section 8, the person appointed to make the investigation may inquire into and examine the affairs of the person in respect of whom the investigation is being made and may,

Powers of investigator

(a) upon production of his appointment, enter at any reasonable time the business premises of such person and examine books, papers, documents, consumer files and things relevant to the subject-matter of the investigation; and

(b) inquire into negotiations, transactions, loans, borrowings made by or on behalf of or in relation to such person and into property, assets or things owned, acquired or alienated in whole or in part by him or any person acting on his behalf that are relevant to the subject-matter of the investigation,

and for the purposes of the inquiry, the person making the investigation has the powers of a commission under Part II of the *Public Inquiries Act*, which Part applies to such inquiry as if it were an inquiry under that Act.

R.S.O. 1980,
c. 411

(3) No person shall obstruct a person appointed to make an investigation under this section or withhold from him or conceal or destroy any books, papers, documents or things relevant to the subject-matter of the investigation.

Obstruction of investigator

(4) Where a justice of the peace is satisfied, upon an *ex parte* application by the person making an investigation under this section, that the investigation has been ordered and that such person has been appointed to make it and that there is reasonable ground for believing there are in any building, dwelling, receptacle or place any books, papers, documents or things relating to the person whose affairs are being investigated and to the subject-matter of the investigation, the justice of the peace may, whether or not an inspection has been made or attempted under clause (2) (a), issue an order authorizing the person making the investigation, together with such police officer or officers as he calls upon to assist him, to enter and search, if necessary by force, such building, dwelling, receptacle or place for such books, papers, documents or things and to examine them, but every such entry and search shall be made between sunrise and sunset unless the justice of the peace, by the order, authorizes the person making the investigation to make the search at night.

Entry and search

(5) Any person making an investigation under this section may, upon giving a receipt therefor, remove any books, papers, documents or things examined under clause (2) (a) or subsection (4) relating to the person whose affairs are being

Removal of books, etc.

investigated and to the subject-matter of the investigation for the purpose of making copies of such books, papers or documents, but such copying shall be carried out with reasonable dispatch and the books, papers or documents in question shall be promptly thereafter returned to the person whose affairs are being investigated.

Certified
copies

(6) Any copy made as provided in subsection (5) and certified to be a true copy by the person making the investigation is admissible in evidence in any action, proceeding or prosecution as *prima facie* proof of the original book, paper or document and its contents.

Appointment
of expert

(7) The Minister or Director may appoint any expert to examine books, papers, documents or things examined under clause (2) (a) or under subsection (4). 1973, c. 97, s. 17.

Matters
confidential

18.—(1) Every person employed in the administration of this Act, including any person making an inquiry, inspection or an investigation under section 15, 16 or 17 shall preserve secrecy in respect of all matters that come to his knowledge in the course of his duties, employment, inquiry, inspection or investigation and shall not communicate any such matters to any other person except,

- (a) as may be required in connection with the administration of this Act and the regulations or any proceedings under this Act or the regulations; or
- (b) to his counsel; or
- (c) with the consent of the person to whom the information relates.

Testimony
in civil
suit

(2) No person to whom subsection (1) applies shall be required to give testimony in any civil suit or proceeding with regard to information obtained by him in the course of his duties, employment, inquiry, inspection or investigation except in a proceeding under this Act or the regulations. 1973, c. 97, s. 18.

Service

19.—(1) Any notice or order required to be given, delivered or served under this Act or the regulations is sufficiently given, delivered or served if delivered personally or sent by registered mail addressed to the person to whom delivery or service is required to be made at his last-known address except that a notice under section 10, 12 or 14 is sufficiently given if sent by ordinary mail.

Idem

(2) Where service is made by mail, the service shall be deemed to be made on the third day after the day of mail-

ing unless the person on whom service is being made establishes that he did not, acting in good faith, through absence, accident, illness or other cause beyond his control receive the notice or order until a later date. 1973, c. 97, s. 19.

20.—(1) Where it appears to the Director that any person ^{Restraining order} does not comply with any provision of this Act, the regulations or an order made under this Act, notwithstanding the imposition of any penalty in respect of such non-compliance and in addition to any other rights he may have, the Director may apply to a judge of the High Court for an order directing such person to comply with such provision, and upon the application, the judge may make such order or such other order as the judge thinks fit.

(2) An appeal lies to the Divisional Court from an order ^{Appeal} made under subsection (1). 1973, c. 97, s. 20.

21. No person shall knowingly supply false or misleading ^{False information} information to another who is engaged in making a consumer report. 1973, c. 97, s. 21.

22.—(1) Every person who,

Offences

- (a) knowingly, furnishes false information in any application under this Act or in any statement or return required to be furnished under this Act or the regulations;
- (b) fails to comply with any order, direction or other requirement made under this Act; or
- (c) contravenes any provision of this Act or the regulations,

and every director or officer of a corporation who knowingly concurs in such furnishing, failure or contravention is guilty of an offence and on conviction is liable to a fine of not more than \$2,000 or to imprisonment for a term of not more than one year, or to both.

(2) Where a corporation is convicted of an offence under ^{Corporations} subsection (1), the maximum penalty that may be imposed upon the corporation is \$25,000 and not as provided therein.

(3) No proceeding under clause (1) (a) shall be commenced more ^{Limitation} than one year after the facts upon which the proceeding is based first came to the knowledge of the Director.

Idem

(4) No proceeding under clause (1) (b) or (c) shall be commenced more than two years after the time when the subject-matter of the proceeding arose. 1973, c. 97, s. 22.

Certificate
as evidence

23.—(1) A statement as to,

- (a) the registration or non-registration of any person;
- (b) the filing or non-filing of any document or material required or permitted to be filed with the Registrar;
- (c) the time when the facts upon which proceedings are based first came to the knowledge of the Director; or
- (d) any other matter pertaining to such registration, non-registration, filing or non-filing,

purporting to be certified by the Director is, without proof of the office or signature of the Director, receivable in evidence as *prima facie* proof of the facts stated therein for all purposes in any action, proceeding or prosecution.

Proof of
Minister's
signature

(2) Any document under this Act purporting to be signed by the Minister, or any certified copy thereof, is receivable in evidence in any action, prosecution or other proceeding as *prima facie* proof that the document is signed by the Minister without proof of the office or signature of the Minister. 1973, c. 97, s. 23.

Regulations

24. The Lieutenant Governor in Council may make regulations,

- (a) exempting any class of persons from this Act or the regulations or any provision thereof;
- (b) governing applications for registration or renewal of registration and prescribing terms and conditions of registration;
- (c) requiring the payment of fees on application for registration or renewal of registration, and prescribing the amounts thereof;
- (d) requiring registered consumer reporting agencies to be bonded in such form and terms and with such collateral security as are prescribed, and providing for the forfeiture of bonds and the disposition of the proceeds;
- (e) prescribing further procedures respecting the conduct of matters coming before the Tribunal;

- (*f*) requiring and governing the books, accounts and records relating to the due compliance with the provisions of this Act that shall be kept by consumer reporting agencies;
- (*g*) prescribing information that may not be reported by a consumer reporting agency or contained in its files;
- (*h*) prescribing information that must be contained in a consumer report;
- (*i*) requiring consumer reporting agencies to make returns and furnish information to the Registrar;
- (*j*) prescribing forms for the purposes of this Act and providing for their use;
- (*k*) requiring any information required to be furnished or contained in any form or return to be verified by affidavit. 1973, c. 97, s. 24.

CHAPTER 90

Conveyancing and Law of Property Act

1.—(1) In this Act,

Interpre-
tation

- (a) “conveyance” includes an assignment, appointment, lease, settlement, and other assurance, made by deed, on a sale, mortgage, demise, or settlement of any property or on any other dealing with or for any property, and “convey” has a meaning corresponding with that of conveyance;
- (b) “land” includes messuages, tenements, hereditaments, whether corporeal or incorporeal, and any undivided share in land;
- (c) “mortgage” includes a charge on property for securing money or money’s worth;
- (d) “mortgage money” means money or money’s worth secured by a mortgage;
- (e) “mortgagee” includes a person from time to time deriving title under the original mortgagee;
- (f) “mortgagor” includes a person from time to time deriving title under the original mortgagor or entitled to redeem a mortgage according to his estate, interest or right in the mortgaged property;
- (g) “property” includes real and personal property, a debt, a thing in action, and any other right or interest;
- (h) “puffer” means a person appointed to bid on the part of the seller;
- (i) “purchaser” includes a lessee, a mortgagee and an intending purchaser, lessee or mortgagee, or other person, who, for valuable consideration, takes or deals for any property, and “purchase” has a meaning corresponding with that of purchaser; but “sale” means only a sale properly so called.

Free and
common
socage,
fief,
seignory, etc.
31 Geo. 3
(Imp.),
c. 31, s. 43;
3 Geo. 4
(Imp.),
c. 119,
ss. 31, 32,
continue
to apply

(2) Section 43 of *The Clergy Endowments (Canada) Act, 1791* (Imperial) and sections 31 and 32 of *The British North*

America (Trade and Lands) Act, 1822 (Imperial), as they applied in Ontario on the day before the day on which they were repealed, continue in effect in Ontario in the same manner and to the same extent as if they had been expressly enacted as part of this Act and had not been repealed. R.S.O. 1970, c. 85, s. 1.

Conveyance
of corporeal
tenements

2. All corporeal tenements and hereditaments, as regards the conveyance of the immediate freehold thereof, lie in grant as well as in livery. R.S.O. 1970, c. 85, s. 2.

Form and
operation of
feoffments

3. A feoffment, otherwise than by deed, is void and no feoffment shall have any tortious operation. R.S.O. 1970, c. 85, s. 3.

Estate tail
to be con-
strued as
fee simple

4. A limitation in a conveyance or will that before the 27th day of May, 1956, would have created an estate tail shall be construed as an estate in fee simple or the greatest estate that the grantor or testator had in the land. R.S.O. 1970, c. 85, s. 4.

Limitation

5.—(1) In a conveyance, it is not necessary, in the limitation of an estate in fee simple, to use the word "heirs".

Idem

(2) For the purpose of such limitation, it is sufficient in a conveyance to use the words "in fee simple" or any other words sufficiently indicating the limitation intended.

Effect of
conveyance
without
words of
limitation

(3) Where no words of limitation are used, the conveyance passes all the estate, right, title, interest, claim and demand that the conveying parties have in, to, or on the property conveyed, or expressed or intended so to be, or that they have power to convey in, to, or on the same.

Saving

(4) Subsection (3) applies only if and as far as a contrary intention does not appear from the conveyance, and has effect subject to the terms of the conveyance and to the provisions therein contained.

Operation
of section

(5) This section applies only to conveyances made after the 1st day of July, 1886. R.S.O. 1970, c. 85, s. 5.

Receipts

6. A receipt for consideration money or securities in the body of a conveyance is a sufficient discharge to the person paying or delivering the conveyance without any further receipt being endorsed on it. R.S.O. 1970, c. 85, s. 6.

Receipt as
evidence for
subsequent
purchaser

7. A receipt for consideration money or other consideration in the body of a conveyance or endorsed thereon is, in favour of a subsequent purchaser not having notice that the money

or other consideration thereby acknowledged to be received was not in fact paid or given wholly or in part, sufficient evidence of the payment or giving of the whole amount thereof. R.S.O. 1970, c. 85, s. 7.

8. On a sale the purchaser is not entitled to require that the conveyance to him be executed in his presence or that of his solicitor, but he is entitled to have, at his own cost, the execution of the conveyance attested by some person appointed by him, who may, if he thinks fit, be his solicitor. Rights of purchaser as to execution
R.S.O. 1970, c. 85, s. 8.

9. A partition of land, an exchange of land, an assignment of a chattel interest in land, and a surrender in writing of land not being an interest that might by law have been created without writing, are void at law, unless made by deed. Requirement of deed for certain interests
R.S.O. 1970, c. 85, s. 9.

10. A contingent, an executory, and a future interest, and a possibility coupled with an interest in land, whether the object of the gift or limitation of such interest or possibility is or is not ascertained, also a right of entry, whether immediate or future, and whether vested or contingent, into or upon land, may be disposed of by deed, but no such disposition, by force only of this Act, defeats or enlarges an estate tail. Disposal of certain interests in land by deed
R.S.O. 1970, c. 85, s. 10.

11. An exchange or a partition of any tenements or hereditaments does not imply any condition in law, and the word "give" or the word "grant" in a conveyance does not imply any covenant in law, except so far as the word "give" or the word "grant" may, by force of any Act in force in Ontario, imply a covenant. Exchange or partition, "give" or "grant"
R.S.O. 1970, c. 85, s. 11.

12. Sections 9, 10 and 11 do not extend to any deed, act or thing executed or done, or to any estate, right or interest created before the 1st day of January, 1850. Application of ss. 9-11
R.S.O. 1970, c. 85, s. 12.

13.—(1) Where by any letters patent, assurance or will, made and executed after the 1st day of July, 1834, land has been or is granted, conveyed or devised to two or more persons, other than executors or trustees, in fee simple or for any less estate, it shall be considered that such persons took or take as tenants in common and not as joint tenants, unless an intention sufficiently appears on the face of the letters patent, assurance or will, that they are to take as joint tenants. Effect of grants, devises, etc., to two or more

Husband
and wife

(2) This section applies notwithstanding that one of such persons is the wife of another of them. R.S.O. 1970, c. 85, s. 13.

Land
acquired by
possession
by two or
more

14. Where two or more persons acquire land by length of possession, they shall be considered to hold as tenants in common and not as joint tenants. R.S.O. 1970, c. 85, s. 14.

What
included in
conveyance

15.—(1) Every conveyance of land, unless an exception is specially made therein, includes all houses, outhouses, edifices, barns, stables, yards, gardens, orchards, commons, trees, woods, underwoods, mounds, fences, hedges, ditches, ways, waters, watercourses, lights, liberties, privileges, easements, profits, commodities, emoluments, hereditaments and appurtenances whatsoever to such land belonging or in anywise appertaining, or with such land demised, held, used, occupied and enjoyed or taken or known as part or parcel thereof, and, if the conveyance purports to convey an estate in fee simple, also the reversion and reversions, remainder and remainders, yearly and other rents, issues and profits of the same land and of every part and parcel thereof, and all the estate, right, title, interest, inheritance, use, trust, property, profit, possession, claim and demand whatsoever of the grantor into, out of or upon the same land, and every part and parcel thereof, with their and every of their appurtenances.

Application
of section

(2) Except as to conveyances under former Acts relating to short forms of conveyances, this section applies only to conveyances made after the 1st day of July, 1886. R.S.O. 1970, c. 85, s. 15.

Meaning of
"mining
rights"

16. Unless the contrary appears to be the intent of the instrument, where in a conveyance the "mining rights" in respect of any land are granted or reserved, the grant or reservation shall be construed to convey or reserve the ores, mines and minerals on or under the land, together with such right of access for the purpose of winning the ores, mines and minerals as is incidental to a grant of ores, mines and minerals. R.S.O. 1970, c. 85, s. 16.

Meaning of
"surface
rights"

17. Unless the contrary appears to be the intent of the instrument, where in a conveyance the "surface rights" in respect of any land are granted or reserved, the grant or reservation shall be construed to convey or reserve the land therein described with the exception of the ores, mines and minerals on or under the land and such right of access for the purpose of winning the ores, mines and minerals as is incidental to a grant of ores, mines and minerals. R.S.O. 1970, c. 85, s. 17.

18. In an instrument purporting to deal with “mining ^{Application} rights” or “surface rights” these expressions respectively have the meaning given them by sections 16 and 17. R.S.O. 1970, c. 85, s. 18.

19. Sections 16, 17 and 18 have effect only as to conveyances ^{Operation of ss. 16-18} or instruments executed on or after the 1st day of July, 1914, and do not apply to conveyances by the Crown. R.S.O. 1970, c. 85, s. 19.

20. Any corporation capable of taking and conveying land ^{How corporations may convey} in Ontario shall be deemed to have been and to be capable of taking and conveying land by deed of bargain and sale in like manner as a person in his natural capacity, subject to any general limitations or restrictions and to any special provisions as to holding or conveying land that are applicable to the corporation. R.S.O. 1970, c. 85, s. 20.

21.—(1) Where land subject to an encumbrance, whether ^{Provision for sales free from encumbrances} immediately payable or not, is sold by a court or out of court, the court in which the sale takes place or the Supreme Court may, on the application of a party to the sale, direct or allow payment into court, in the case of an annual sum charged on the land, or of a capital sum charged on a determinable interest in the land, of such amount as, having regard to the interest that it will earn, the court considers will be sufficient by means of the income thereof to keep down or otherwise provide for that charge, and, in any other case of capital money charged on the land, of an amount sufficient to meet the encumbrance and any interest due thereon, but in either case there shall also be paid into court such additional amount as the court considers will be sufficient to meet the contingency of further costs, expenses and interest, and any other contingency, not exceeding one-tenth of the original amount to be paid in, unless the court for special reasons thinks fit to require a larger additional amount.

(2) The court may thereupon, either after or without notice ^{Conveyance or vesting order} to the encumbrancer, declare the land to be freed from the encumbrance, and may make any order for conveyance or vesting order proper for giving effect to the sale.

(3) After notice served on the persons interested in or ^{Directions} entitled to the money or fund in court, the court may direct payment or transfer thereof to the persons entitled to receive or give a discharge for the same, and generally may give directions respecting the application or distribution of the capital or income thereof.

Effect of
payment
into court

(4) Payment of money into court effectually exonerates therefrom the person making the payment and frees the land from the charge or encumbrance. R.S.O. 1970, c. 85, s. 21.

Covenants
to restrict
use of land
because of
race, creed,
etc.

22. Every covenant made after the 24th day of March, 1950, that but for this section would be annexed to and run with land and that restricts the sale, ownership, occupation or use of land because of the race, creed, colour, nationality, ancestry or place of origin of any person is void and of no effect. R.S.O. 1970, c. 85, s. 22.

Covenants
to be
implied

23.—(1) In a conveyance made on or after the 1st day of July, 1886, there shall, in the cases in this section mentioned, be deemed to be included, and there shall in those cases be implied, covenants to the effect in this section stated, by the person or by each person who conveys, as far as regards the subject-matter or share thereof expressed to be conveyed by him, with the person, if one, to whom the conveyance is made, or with the persons jointly, if more than one, to whom the conveyance is made as joint tenants, or with each of the persons, if more than one, to whom the conveyance is made as tenants in common:

On
conveyance
for value
by beneficial
owner

1. In a conveyance for valuable consideration, other than a mortgage, the following covenants by the person who conveys, and is expressed to convey as beneficial owner, namely, covenants for,

- i. right to convey,
- ii. quiet enjoyment,
- iii. freedom from encumbrances, and
- iv. further assurance,

R.S.O. 1980,
c. 472

according to the forms of covenants for such purposes set forth in Schedule B to the *Short Forms of Conveyances Act*, and therein numbered 2, 3, 4 and 5, subject to that Act.

On
conveyance
of leaseholds
for value by
beneficial
owner

2. In a conveyance of leasehold land for valuable consideration, other than a mortgage, the following further covenant, by the person who conveys and is expressed to convey as beneficial owner:

That, notwithstanding anything by the person who so conveys, made, done, executed, or omitted, or knowingly suffered, the lease or grant creating the term or estate for which the land is conveyed is,

at the time of conveyance, a good, valid and effectual lease or grant of the property conveyed, and is in full force, unforfeited, unsurrendered, and in nowise become void or voidable, and that, notwithstanding anything as aforesaid, all the rents reserved by and all the covenants, conditions and agreements contained in the lease or grant, and on the part of the lessee or grantee, and the persons deriving title under him to be paid, observed and performed, have been paid, observed and performed, up to the time of conveyance.

3. In a conveyance the following covenant by every person who conveys, and is expressed to convey, as trustee or mortgagee, or as personal representative of a deceased person, or as committee of a mentally incompetent person, or under an order of the court, which covenant shall be deemed to extend to every such person's own acts only, namely:

On conveyance by trustee, etc.

That the person so conveying has not executed, or done, or knowingly suffered, or been party or privy to any deed, act, matter or thing, whereby or by means whereof the subject-matter of the conveyance, or any part thereof is or may be impeached, charged, affected, or encumbered in title, estate or otherwise, or whereby or by means whereof the person who so conveys is in anywise hindered from conveying such subject-matter or any part thereof, in the manner in which it is expressed to be conveyed.

4. In a conveyance by way of settlement the following covenant by a person who conveys and is expressed to convey as settlor, namely:

On settlement for further assurance, limited

That the person so conveying, and every person deriving title under him by deed or act or operation of law in his lifetime subsequent to that conveyance, or by testamentary disposition or devolution in law, on his death will, from time to time, and at all times, after the date of that conveyance, at the request and cost of any person deriving title thereunder, execute and do all such lawful assurances and things for further or more perfectly assuring the subject-matter of the conveyance to the persons to whom the conveyance is made, and those deriving title under them, subject as, if so expressed, and in the manner in which the conveyance is expressed to be made, as by them or any of them shall be reasonably required.

On conveyance by direction of beneficial owner

(2) Where in a conveyance it is expressed that by direction of a person expressed to direct as beneficial owner another person conveys, the person giving the direction, whether or not he conveys and is expressed to convey, as beneficial owner, shall be deemed to convey, and to be expressed to convey as beneficial owner the subject-matter so conveyed by his direction, and the covenants on his part mentioned in paragraph 1 of subsection (1) shall be implied accordingly.

Enforcing covenants

(3) The benefit of a covenant so implied is annexed and incident to and goes with the estate or interest of the implied covenantee, and is capable of being enforced by every person in whom that estate or interest is for the whole or any part thereof from time to time vested.

Variation of covenants

(4) A covenant so implied may be varied or extended and as so varied or extended operates, as far as may be, in the like manner and with all the like incidents, effects and consequences as if such variations or extensions were directed in this section to be implied. R.S.O. 1970, c. 85, s. 23.

Operation of covenants, inheritance

24.—(1) A covenant relating to land of inheritance or to land held for the life of another shall be deemed to be made with the covenantee, his heirs and assigns, and has effect as if heirs and assigns were expressed.

Idem, not of inheritance

(2) A covenant relating to land not of inheritance or to land not held for the life of another shall be deemed to be made with the covenantee, his executors, administrators and assigns, and has effect as if executors, administrators and assigns were expressed. R.S.O. 1970, c. 85, s. 24.

Mode of executing powers

25.—(1) A deed executed in the presence of and attested by two or more witnesses in the manner in which deeds are ordinarily executed and attested is, so far as respects the execution and attestation thereof, a valid execution of a power of appointment by deed or by an instrument in writing, not testamentary, notwithstanding that it is especially required that a deed or instrument in writing, made in exercise of such power, be executed or attested with some additional or other form of execution or attestation or solemnity.

Saving of other requirements

(2) This section does not operate to defeat any direction in the deed or instrument creating the power that the consent of a particular person is necessary to a valid execution, or that any act is performed in order to give validity to any appointment, having no relation to the mode of executing and attesting the deed or instrument.

(3) Nothing in this section prevents the donee of a power from executing it conformably to the power. R.S.O. 1970, c. 85, s. 25. Power may be observed

26.—(1) A person to whom a power, whether coupled with an interest or not, is given may by deed disclaim or release or contract not to exercise the power. Disclaimer of power by donee

(2) A person disclaiming is not afterwards capable of exercising or joining in the exercise of the power, and on such disclaimer the power may be exercised by the other or others or the survivor or survivors of the others of the persons to whom the power was given, unless the contrary is expressed in the instrument creating the power. R.S.O. 1970, c. 85, s. 26. Disclaimers of power

27. Where under a power of sale a sale in good faith is made of an estate with the timber thereon or with any articles attached thereto, and the tenant for life or any other party to the transaction is by mistake allowed to receive for his own benefit a part of the purchase money or value of the timber or article, the Supreme Court, upon an action brought or upon application made in a summary way, may declare that upon payment by the purchaser or the claimant under him of the full value of the timber or article at the time of the sale, with such interest thereon as the court directs, and the settlement of the principal money and interest under the direction of the court, upon such person as in the opinion of the court is entitled thereto, the sale ought to be established, and upon payment and settlement being made accordingly, the court may declare the sale valid, and thereupon the legal estate vests and goes in like manner as if the power had been duly executed, and the costs of the application, as between solicitor and client, shall be paid by the purchaser or the claimant under him. R.S.O. 1970, c. 85, s. 27. Validity of sale under power although mistaken payment to tenant for life

28.—(1) No appointment made in exercise of a power or authority to appoint any property, real or personal, among several objects, is invalid or shall be impeached on the ground that an unsubstantial, illusory or nominal share only is thereby appointed to, or left unappointed to devolve upon, any one or more of the objects of such power, or upon the ground that any object of such power has been altogether excluded, but every such appointment is valid and effectual, notwithstanding that any one or more of the objects shall not thereunder, or in default of such appointment, take more than an unsubstantial, illusory, or take no share thereof, or nominal share of the property subject to such power. Illusory appointments

(2) Nothing in this section prejudices or affects any provision in a deed, will or other instrument creating any such Saving of positive requirements in constituting instrument

power that declares the amount of the share or shares from which no object of the power shall be excluded or that some one or more object or objects of the power shall not be excluded or give any validity, force or effect to any appointment, other than such appointment would have had if a substantial share of the property affected by the power had been thereby appointed to, or left unappointed, to devolve upon any object of such power. R.S.O. 1970, c. 85, s. 28.

Waste by
dowress,
etc.

29. A dowress, a tenant for life or for years, and the guardian of the estate of a minor, are impeachable for waste and liable in damages to the person injured. R.S.O. 1970, c. 85, s. 30; 1977, c. 40, s. 51 (2).

Waste by
tenant for
life without
impeach-
ment of
waste

30. An estate for life without impeachment of waste does not confer upon the tenant for life any legal right to commit waste of the description known as equitable waste, unless an intention to confer the right expressly appears by the instrument creating the estate. R.S.O. 1970, c. 85, s. 31.

Waste
between
joint tenants
and tenants
in common

31. Tenants in common and joint tenants are liable to their co-tenants for waste, or, in the event of a partition, the part wasted may be assigned to the tenant committing the waste at the value thereof to be estimated as if no waste had been committed. R.S.O. 1970, c. 85, s. 32.

Waste by
lessees

32. Lessees making or suffering waste on the demised premises without licence of the lessors are liable for the full damage so occasioned. R.S.O. 1970, c. 85, s. 33.

Release of
part of
land from
rent-charge

33. The release from a rent-charge of part of the land charged therewith does not extinguish the whole rent-charge, but operates only to bar the right to recover any part of it out of the land released without prejudice to the rights of all persons interested in the land remaining unreleased and not concurring in or confirming the release. R.S.O. 1970, c. 85, s. 34.

Abrogation
of doctrine
of *scintilla
juris*

34. Where by a deed, will or other instrument land is limited to uses, all uses thereunder, whether expressed or implied by law and whether immediate or future or contingent or executory or to be declared under any power therein contained, take effect when and as they arise by force of and by relation to the estate and seisin originally vested in the person seised to the uses, and the continued existence in him or elsewhere of any seisin to uses or *scintilla juris* are

not necessary for the support of, or to give effect to, future or contingent or executory uses, nor shall any such seisin to uses or *scintilla juris* be deemed to be suspended or to remain or to subsist in him or elsewhere. R.S.O. 1970, c. 85, s. 35.

35. Every contingent remainder is capable of taking effect notwithstanding the determination by forfeiture, surrender or merger of any preceding estate of freehold. R.S.O. 1970, c. 85, s. 36.

Contingent remainders

36.—(1) There shall not be any merger by operation of law only of any estate, the beneficial interest in which, prior to *The Ontario Judicature Act, 1881*, would not have been deemed merged or extinguished in equity. R.S.O. 1970, c. 85, s. 37.

No merger of estate by operation of law
44 V., c. 5

(2) Where a person who has a leasehold estate in land under a lease,

Merger of leasehold in freehold

- (a) from Ontario Housing Corporation or Ontario Land Corporation; or
- (b) from the Crown under the *Mining Act* or the *Public Lands Act*,

R.S.O. 1980, cc. 268, 413

acquires the freehold estate in the land, the leasehold estate merges in the freehold estate and upon the merging the freehold estate becomes subject to any interest to which the leasehold estate was subject immediately before the merging in the same ranking as to priorities as were then held. 1979, c. 42, s. 1.

37.—(1) Where a person makes lasting improvements on land under the belief that it is his own, he or his assigns are entitled to a lien upon it to the extent of the amount by which its value is enhanced by the improvements, or are entitled or may be required to retain the land if the court is of opinion or requires that this should be done, according as may under all circumstances of the case be most just, making compensation for the land, if retained, as the court directs.

Lien on lands for improvements under mistake of title

(2) In subsection (1), “court” means Supreme Court or the county or district court of the county or district in which the land or any part thereof is situate.

Interpretation

(3) Where an application under subsection (1) is made to a county or district court, a respondent may, by notice served on the applicant and on the other respondents, if any, and filed with proof of service thereof with the clerk of the county or district court not later than two days preceding the day of return of the application, require the proceedings to be removed into the Supreme Court.

Removal of proceedings into Supreme Court

- Transmission of proceedings (4) Upon the filing of the notice and proof of service thereof, the clerk of the county or district court shall forthwith transmit the papers and proceedings to the proper office of the Supreme Court in the county or district in which the application is made.
- Removal of proceedings (5) When the papers and proceedings are received at the proper office of the Supreme Court, the proceedings shall thereupon be removed into the Supreme Court.
- Appeal (6) An appeal lies to the Court of Appeal from any order made under this section. R.S.O. 1970, c. 85, s. 38.
- Rule as to purchases of reversions **38.** No purchase made in good faith and without fraud of any reversionary interest in property shall be opened or set aside on the ground of undervalue. R.S.O. 1970, c. 85, s. 39.
- Onus of proof **39.** It is not necessary, in order to maintain the defence of a purchase for value without notice, to prove payment of the mortgage money or purchase money or any part thereof. R.S.O. 1970, c. 85, s. 40.
- Assignment of property to wife or self and others **40.** Any property may be conveyed by a person to himself jointly with another person by the like means by which it might be conveyed by him to another person, and may in like manner be conveyed or assigned by a husband to his wife, or by a wife to her husband, alone or jointly with another person. R.S.O. 1970, c. 85, s. 41.
- Conveyance of property to himself **41.** A person may convey property to or vest property in himself in like manner as he could have conveyed the property to or vested the property in another person. R.S.O. 1970, c. 85, s. 42.
- Two or more persons may convey to any one or more of themselves **42.** Two or more persons, whether or not they are trustees or personal representatives, may convey and shall be deemed always to have been capable of conveying property vested in them to any one or more of themselves in like manner as they could have conveyed the property to a third party, but, if the persons in whose favour the conveyance is made are, by reason of any fiduciary relationship or otherwise, precluded from validly carrying out the transaction, the conveyance is liable to be set aside. R.S.O. 1970, c. 85, s. 43.
- Joint tenancy of corporation and an individual **43.**—(1) A corporation is and has been capable of acquiring and holding real or personal property in joint tenancy in the same manner as if it were an individual, and, where a corporation and an individual, or two or more corporations, became or become entitled to any such property under circumstances or by virtue of any instrument that would, if the corporation had been an individual, have created a joint tenancy, they are and have been entitled to the property

as joint tenants, but the acquisition and holding of property by a corporation in joint tenancy has been and is subject to the like conditions and restrictions as attach to the acquisition and holding of property by a corporation in severalty.

(2) Where a corporation is joint tenant of property and the corporation dissolves, the property devolves on the other joint tenant. R.S.O. 1970, c. 85, s. 44.

Devolution on dissolution of corporate joint tenant

44. Where by the terms of a conveyance of land a right of way or easement is reserved or excepted from the land thereby transferred or charged, such reservation or exception is effectual and shall be deemed always to have been effectual to vest the right of way or easement in the transferor or chargor of the land notwithstanding that the transferee or chargee does not execute the instrument. R.S.O. 1970, c. 85, s. 45.

Effect of reservation of right of way or other easement

45. Where an estate is, by a marriage or other settlement, limited in remainder to, or to the use of, the first or other son or sons of the body of a person lawfully begotten, with any remainder over to, or to the use of, any other person or in remainder to, or to the use of, a daughter lawfully begotten, with any remainder to any other person, any son or daughter of such person lawfully begotten or to be begotten who is born after the decease of his or her father shall, by virtue of such settlement, take such estate so limited to the first and other son or daughter in the same manner as if born in the lifetime of his or her father, although there may be no estate limited to trustees, after the decease of the father, to preserve the contingent remainder to such afterborn son or daughter, until he or she come *in esse*, or is born, to take the same. R.S.O. 1970, c. 85, s. 46.

Capacity of posthumous children to take in remainder

46. If a person for whose life an estate is granted remains out of Ontario or absents himself therefrom for the space of seven years together so that it cannot be ascertained whether he is alive or dead and no sufficient proof is made of the life of such person in any action commenced for recovery of such estate by the lessor or reversioner, the person upon whose life such estate depended shall be accounted as naturally dead, and in every action brought for the recovery of the estate by the lessor or reversioner, his heirs or assigns, judgment shall be given accordingly. R.S.O. 1970, c. 85, s. 47.

When death of *cestui que vie* presumed

47. If a person is evicted out of land by virtue of section 46, and if afterwards the person upon whose life such estate depends returns to Ontario, or in any action to be brought for recovery of the same, is shown to be living or to have been living at the time of the eviction, the tenant or lessee who was ousted, his executors, administrators or assigns, may re-enter, repossess, have, hold and enjoy the land in his former

Right of tenant when *cestui que vie* proved to be living

estate, for and during the life, or so long a term as the person upon whose life the estate depends is living, and also shall, upon action to be brought by him against the lessor, reversioner, tenant in possession or other person, who, since the time of the eviction, received the profits of the land, recover for damages the full profits thereof, with lawful interest for, and from, the time that he was ousted and kept or held out of the land by such lessor, reversioner, tenant in possession or other person, whether the person upon whose life such estate depends is living or dead at the time of bringing the action. R.S.O. 1970, c. 85, s. 48.

Order for
production
of person at
instance of
reversioner,
etc.

48.—(1) The Supreme Court may, on the application of a person who has a claim or demand in, or to, any remainder, reversion, or expectancy, in, or to, any estate in land, after the death of a person within age, married woman, or any other person whomsoever, upon affidavit made by the person so claiming such estate of his title, and that he has cause to believe that such minor, married woman or other person is dead, and that his or her death is concealed by the guardian, trustee, husband or other person, which application may be made once a year if the person aggrieved thinks fit, order that such guardian, trustee, husband or other person concealing, or suspected to conceal, such person, do, at such time and place as the court directs, on personal or other due service of such order, produce and show to such person and persons, not exceeding two, as shall in such order be named by the party prosecuting such order, such minor, married woman or other person.

Order for
production
of person
before com-
missioner

(2) If such guardian, trustee, husband or other person refuses or neglects to produce or show such minor, married woman or other person on whose life any such estate depends according to the directions of the order, the court is hereby authorized and required to order such guardian, trustee, husband or other person to produce such minor, married woman, or other person concealed, in the court or otherwise before commissioners to be appointed by the court at such time and place as the court directs, two of which commissioners shall be nominated by the party prosecuting such order, at his costs and charges.

Presumption
on failure to
produce

(3) If such guardian, trustee, husband or other person refuses or neglects to produce such minor, married woman, or other person so concealed, in court or before such commissioners, whereof return shall be made by such commissioners and filed in the office of the Registrar of the Supreme Court at Osgoode Hall, in either, or any, of such cases, such minor, married woman or other person shall be taken to be dead, and it is lawful for any person claiming any right, title, or interest, in remainder or reversion, or otherwise, after the death of such minor, married woman or other person to enter upon

such land as if such minor, married woman or other person were actually dead. R.S.O. 1970, c. 85, s. 49.

49. If it appears to the court by affidavit that such minor, married woman or other person is, or lately was, at some certain place out of Ontario in the affidavit mentioned, the party prosecuting such order, at his costs and charges, may send over one or both of the persons appointed by the order to view such minor, married woman or other person, and if such guardian, trustee, husband or other person, concealing, or suspected to conceal, such person, refuses or neglects to produce, or procure to be produced to such person or persons a personal view of such minor, married woman or other person, then such person or persons shall make a true return of such refusal or neglect to the court, which shall be filed in the office of the Registrar of the Supreme Court at Osgoode Hall and thereupon such minor, married woman or other person shall be taken to be dead, and any person claiming any right, title or interest in remainder, reversion or otherwise, after the death of such minor, married woman or other person, may enter upon such land as if such minor, married woman or other person were actually dead. R.S.O. 1970, c. 85, s. 50.

Where person required to be produced is out of Ontario

50. If it afterwards appears, upon proof in an action to be brought, that such minor, married woman or other person was alive at the time such order was made, such minor, married woman, guardian, trustee or other person having any estate or interest determinable upon such life may re-enter upon the land and may maintain an action against those who, since the order, received the profits thereof, or their executors or administrators, and recover full damages for the profits of the same received from the time that such minor, married woman or other person having an estate or interest determinable upon such life was ousted of the possession of such land. R.S.O. 1970, c. 85, s. 51.

When it appears that person required to be produced was alive

51. If any such guardian, trustee, husband or other person holding or having any estate or interest determinable upon the life of any other person shows to the satisfaction of the court that he has used his utmost endeavour to procure such minor, married woman or other person on whose life such estate or interest depends to appear in court or elsewhere according to the order, and that he cannot procure or compel such appearance, and that such minor, married woman or other person is living or was living at the time such return was made and filed, the court may order that such person may continue in the possession of such estate and receive the rents and profits thereof during the minority of such minor and the

When it appears that guardian, etc., cannot produce person who is alive

life of any other person on whose life such estate or interest next depends as fully as he might have done if this section and sections 48, 49 and 50 had not been enacted. R.S.O. 1970, c. 85, s. 52.

Guardians,
trustees, etc.,
holding over
without con-
sent of re-
mainderman,
etc., deemed
trespassers

52. Every person having an estate or interest in land determinable upon a life and the guardian or trustee for a minor having such an estate who, after the determination of such particular estate or interest, without the express consent of the person who is next and immediately entitled upon and after the determination of such particular estate or interest, holds over and continues in possession of any land, shall be deemed a trespasser, and every person entitled to any such land upon and after the determination of such particular estate or interest may recover in damages against every such person so holding over the full value of the profits received during such wrongful possession. R.S.O. 1970, c. 85, s. 53.

Assignments
of debts and
choses in
action

53.—(1) Any absolute assignment made on or after the 31st day of December, 1897, by writing under the hand of the assignor, not purporting to be by way of charge only, of any debt or other legal chose in action of which express notice in writing has been given to the debtor, trustee or other person from whom the assignor would have been entitled to receive or claim such debt or chose in action is effectual in law, subject to all equities that would have been entitled to priority over the right of the assignee if this section had not been enacted, to pass and transfer the legal right to such debt or chose in action from the date of such notice, and all legal and other remedies for the same, and the power to give a good discharge for the same without the concurrence of the assignor.

Where
several
claimants
under
assignment

(2) In the case of an assignment of a debt or other chose in action, if the debtor, trustee or other person liable in respect of the debt or chose in action has had notice that such assignment is disputed by the assignor or any one claiming under him, or of any other opposing or conflicting claims to such debt or chose in action, he is entitled, if he thinks fit, to call upon the several persons making claim thereto to interplead concerning the same, or he may, if he thinks fit, pay the same into the Supreme Court under and in conformity with the provisions of law for the relief of trustees. R.S.O. 1970, c. 85, s. 54.

Bonds and
debentures of
corporations

54.—(1) The bonds or debentures of a corporation made payable to bearer, or to a person named therein or bearer, may be transferred by delivery, and if payable to a person or order, after general endorsement thereof by such person, are transferable by delivery.

(2) Any such transfer vests the property in the bond or debenture in the holder thereof and enables him to maintain an action thereon in his own name. Rights of holder R.S.O. 1970, c. 85, s. 55.

55. Unless in the particulars or conditions of sale by auction of land it is stated that the land will be sold subject to a reserved price or to a right of the seller to bid, the sale shall be deemed to be without reserve. Auctions of estates when sale deemed without reserve R.S.O. 1970, c. 85, s. 56.

56. Upon a sale of land by auction, without reserve, it is not lawful for a seller or for a puffer to bid at the sale, or for the auctioneer to take, knowingly, any bidding from the seller or from a puffer. Prohibition against seller bidding R.S.O. 1970, c. 85, s. 57.

57. Upon a sale of land by auction, subject to a right of the seller to bid, it is lawful for the seller or any one puffer to bid at the auction in such manner as the seller thinks proper. When seller may bid R.S.O. 1970, c. 85, s. 58.

58. Nothing in sections 55, 56 and 57 authorizes a seller to become the purchaser at the sale. Seller not authorized to purchase R.S.O. 1970, c. 85, s. 59.

59. If a seller or mortgagor of property or his solicitor or agent conceals any settlement, deed, will or other instrument material to the title, or any encumbrance, from the purchaser or mortgagee, or falsifies any pedigree upon which the title depends or may depend, in order to induce him to accept the title offered or produced to him, with intent to defraud, such seller, mortgagor, solicitor or agent, irrespective of any criminal liability he may thereby incur, is liable at the suit of the purchaser or mortgagee or those claiming under him for any loss sustained by them or either or any of them in consequence of the settlement, deed, will or other instrument or encumbrance so concealed, or of any claim made by any person under such pedigree whose right was so concealed by the falsification of such pedigree, and, in the case of land, in estimating such damages where the property is recovered from such purchaser or mortgagee or from those claiming under him, regard shall be had to any expenditure by them, or either or any of them, in improvements on the land. Liability of vendor or mortgagor for fraudulent concealment of deeds, etc., or falsifying pedigree R.S.O. 1970, c. 85, s. 60.

60. An order of the court under any statutory or other jurisdiction shall not, as against a purchaser, whether with or without notice, be invalidated on the ground of want of jurisdiction or of want of any concurrence, consent, notice or service. Orders of court, effect R.S.O. 1970, c. 85, s. 61.

61.—(1) Where there is annexed to land a condition or covenant that the land or a specified part of it is not to be built on or is to be or not to be used in a particular manner, of Restrictive covenants, modification or discharge

or any other condition or covenant running with or capable of being legally annexed to land, any such condition or covenant may be modified or discharged by order of a judge of the Supreme Court or of the judge of the county or district court of the county or district in which the land or any part of it is situate.

Removal of
proceedings
into
Supreme
Court

(2) Where an application under subsection (1) is made to the judge of a county or district court, a respondent may, by notice served on the applicant and on the other respondents, if any, and filed with proof of service thereof with the clerk of the county or district court not later than two days preceding the day of return of the application, require the proceedings to be removed into the Supreme Court.

Transmission
of proceed-
ings

(3) Upon the filing of the notice and proof of service thereof, the clerk of the county or district court shall forthwith transmit the papers and proceedings to the proper office of the Supreme Court in the county or district in which the application is made.

Removal of
proceedings

(4) When the papers and proceedings are received at the proper office of the Supreme Court, the proceedings shall thereupon be removed into the Supreme Court.

Notice of
application

(5) Before making any such order, the judge shall cause notice of the application to be given to such persons as appear to him to be interested in the relief sought, either by personal service, advertisement or by registered mail as he directs.

Appeal

(6) An appeal lies to the Court of Appeal from the decision of a judge under subsection (1).

Exception

R.S.O. 1980,
cc. 302, 379

(7) Nothing in this section applies to building restrictions imposed by a by-law passed under the *Municipal Act* or the *Planning Act*. R.S.O. 1970, c. 85, s. 62.

CHAPTER 91

Co-operative Corporations Act**1.—(1) In this Act,****Interpre-
tation**

1. “articles of incorporation” or “articles” means the original or restated articles of incorporation, articles of amalgamation, letters patent, supplementary letters patent, a special Act and any other instrument by which a co-operative is incorporated, and includes any amendments thereto;
2. “authorized capital” means the authorized capital as determined under section 25;
3. “certificate of incorporation” includes letters patent, a special Act or any other instrument by which a co-operative is incorporated;
4. “certified copy” means,
 - i. in relation to a document of a co-operative, a copy of the document certified to be a true copy under the seal of the co-operative and signed by an officer thereof,
 - ii. in relation to a document issued by a court, a copy of the document certified to be a true copy under the seal of the court and signed by the registrar or clerk thereof,
 - iii. in relation to a document in the custody of the Ministry, a copy of the document certified to be a true copy under the seal of the Minister and signed by the Minister or by such officer of the Ministry as is designated by the regulations;
5. “co-operative” means a corporation carrying on an enterprise on a co-operative basis and to which this Act applies;

6. "co-operative basis" means organized, operated and administered upon the following principles and methods,
 - i. each member or delegate has only one vote,
 - ii. no member or delegate may vote by proxy,
 - iii. interest on loan capital and dividends on share capital are limited to a percentage fixed by this Act or the articles of incorporation, and
 - iv. the enterprise of the corporation is operated as nearly as possible at cost after providing for reasonable reserves and the payment or crediting of interest on loan capital or dividends on share capital; and any surplus funds arising from the business of the organization, after providing for such reasonable reserves and interest or dividends, unless used to maintain or improve services of the organization for its members or donated for community welfare or the propagation of co-operative principles, are distributed in whole or in part among the members in proportion to the volume of business they have done with or through the organization;
7. "corporation" means a corporation with or without share capital whether or not it is a co-operative to which this Act applies;
8. "court" means the Supreme Court of Ontario presided over by one of those judges of the High Court who are designated by the Chief Justice of the High Court for the purpose of hearing applications under this Act;
9. "debt obligation" means a bond, debenture, note or other similar obligation of a corporation, whether secured or unsecured;
10. "direct charge co-operative" means a co-operative that deals with its members and prospective members only in products or services on a cost basis and that directly charges its members a fee to cover the operating expenses of the co-operative;

11. "financial statement" means a financial statement referred to in section 128;
12. "issued capital" means the issued capital as determined under section 29;
13. "member" means a person who is a member of a co-operative pursuant to the provisions of this Act or the articles and by-laws of the co-operative governing membership;
14. "Minister" means the Minister of Consumer and Commercial Relations or such other member of the Executive Council to whom the administration of this Act may be assigned;
15. "Ministry" means the Ministry of the Minister;
16. "officer" means the chairman or any vice-chairman of the board of directors, the president, any vice-president, the secretary, any assistant secretary, the treasurer, any assistant treasurer, the general manager, or any other person designated an officer by by-law or by resolution of the directors or any other individual who performs functions for the co-operative similar to those normally performed by an individual occupying any such office;
17. "personal representative", where used with reference to the holding of shares or loans or the exercise of a member's rights in that capacity, means in the capacity of an executor, administrator, guardian, tutor, trustee, receiver or liquidator of the member, shareholder or lender or the committee of or curator to the member, shareholder or lender who is a mentally incompetent person;
18. "prescribed" means prescribed by the regulations;
19. "regulations" means the regulations made under this Act;
20. "related person", where used to indicate a relationship with any person, means,
 - i. any spouse, son or daughter of that person, or
 - ii. any relative of such person or of his spouse, other than a relative referred to in subparagraph i, who has the same home as such person;

21. "resident Canadian" means a Canadian citizen or person lawfully admitted to Canada for permanent residence, who is ordinarily resident in Canada;
22. "security" means any share of any class of shares or any debt obligation of a corporation;
23. "senior officer" means,
 - i. the chairman or any vice-chairman of the board of directors, the president, any vice-president, the secretary, the treasurer or the general manager of a co-operative or any other individual who performs functions for the co-operative similar to those normally performed by an individual occupying any such office, and
 - ii. each of the five highest paid employees of a co-operative, including any individual referred to in subparagraph i;
24. "special resolution" means a resolution that is not effective until it is,
 - i. passed by the directors of a co-operative, and
 - ii. confirmed, with or without variation, by at least two-thirds of the votes cast at a general meeting of the members of the co-operative duly called for that purpose, or such greater proportion of the votes cast as the articles provide;
25. "term loan" means a loan having a fixed date of maturity and includes member and patronage loans having a fixed date of maturity.

**Interpre-
tation:
subsidiary**

(2) For the purposes of this Act, a corporation shall be deemed to be a subsidiary of a co-operative if, but only if, it is controlled by that co-operative.

**Holding
co-operative**

(3) For the purposes of this Act, a co-operative shall be deemed to be a corporation's holding co-operative if, but only if, that corporation is its subsidiary.

Control

(4) For the purposes of this Act, a subsidiary shall be deemed to be controlled by one or more other corporations if, but only if,

- (a) shares of the subsidiary carrying more than 50 per cent of the votes for the election of directors are held, other than by way of security only, by or for the benefit of such one or more other corporations; and

- (b) the votes carried by such shares are sufficient, if exercised, to elect a majority of the board of directors of the subsidiary.

(5) For the purposes of this Act, a co-operative is insolvent ^{Insolvency} if its liabilities exceed the realizable value of its assets or if the co-operative is unable to pay its debts as they become due.

(6) In determining the number of members of a co-operative, ^{Number of members} for the purposes of this Act, two or more persons holding the same share or shares jointly shall be counted as one member. 1973, c. 101, s. 1.

2. The Minister may delegate in writing any of his duties ^{Adminis-} or powers under this Act to any public servant in the Ministry. ^{tration} 1973, c. 101, s. 2.

3. This Act, except where it is otherwise expressly pro- ^{Application} vided, applies,

- (a) to every corporation incorporated as a co-operative by or under a general or special Act of the Parliament of the former Province of Upper Canada;
- (b) to every corporation incorporated as a co-operative by or under a general or special Act of the Parliament of the former Province of Canada that has its head office and carries on business in Ontario and that was incorporated with objects to which the authority of the Legislature extends; and
- (c) to every corporation incorporated as a co-operative by or under a general or special Act of the Legislature,

but this Act does not apply to a corporation to which the *Credit Unions and Caisses Populaires Act* applies. ^{R.S.O. 1980, c. 102} 1973, c. 101, s. 3.

INCORPORATION

4.—(1) A co-operative may be incorporated under this ^{Incorpora-} Act for any lawful objects to which the authority of the ^{tion} Legislature extends, except those of a corporation the incorporation of which is provided for in any other Act.

(2) Where the practice of a profession is governed by an ^{Professions} Act, a co-operative may be incorporated to practise the profession only if such Act expressly permits the practice of the profession by a corporation and subject to the provisions of such Act. 1973, c. 101, s. 4.

Articles of
incorporation

5.—(1) Five or more persons, being,

(a) corporations; or

(b) natural persons who are of the age of eighteen years or more,

and who intend to be members of the co-operative, may incorporate a co-operative with or without share capital by signing and delivering to the Minister in duplicate articles of incorporation. 1978, c. 86, s. 1 (1).

Contents of
articles

(2) Subject to subsection (3), articles of incorporation shall set out the following particulars:

1. The name of the co-operative to be incorporated.
2. The objects for which the co-operative is to be incorporated.
3. The place in Ontario where the head office of the co-operative is to be located, giving the municipality and the county or district or, where the head office is to be located in territory without municipal organization, the geographic township and district and the address giving the street and number, if any.
4. The number of directors of the co-operative and the names in full and the residence addresses, giving the street and number, if any, of each person who is to be a first director of the co-operative.
5. The name in full, and the residence address, giving the street and number, if any, of each of the incorporators. 1973, c. 101, s. 5 (2).

Idem

(3) In addition to the particulars required to be set out in subsection (2), articles of incorporation shall state,

(a) where there is to be share capital,

- (i) the authorized capital, the classes of shares, if any, into which it is to be divided, the number of shares of each class and the par value of each share,

- (ii) where there are to be preference shares, the designations, preferences, rights, conditions, restrictions, limitations or prohibitions attaching to them or each class of them,
 - (iii) the restrictions to be placed on the transfer of its shares or any class thereof, and
 - (iv) the class and number of shares to be taken by each incorporator and the amount to be paid therefor;
- (b) where there is to be no share capital,
- (i) the amount of the membership fee,
 - (ii) the restrictions to be placed on the transfer of member loans,
 - (iii) the classes of membership, if any, setting forth the designation of and the terms and conditions attaching to each class of membership, and
 - (iv) the amount of a minimum member loan, if any,

and any other matter required by this Act or the regulations to be set out in the articles. 1973, c. 101, s. 5 (3); 1978, c. 86, s. 1 (2).

(4) The articles may set out any provision that is authorized ^{Idem} by this Act to be set out in the articles or that could be the subject of a by-law of the co-operative.

(5) Where the articles name as a first director a person ^{Consent of first director} who is not an incorporator, the articles shall have attached thereto his written and signed consent to act as a first director. 1973, c. 101, s. 5 (4, 5).

(6) The signature of each incorporator and of each first ^{Affidavits} director and the fact that,

- (a) each incorporator who is a natural person and each first director is of the age of eighteen years or more; and

- (b) each incorporator is to be a member of the co-operative,

shall be verified by affidavit. 1978, c. 86, s. 1 (3).

Certificate of
incorpora-
tion

6.—(1) If the articles conform to law and the approval of any person or body required by statute to approve the incorporation has been given, the Minister shall, when all prescribed fees have been paid,

- (a) endorse on each duplicate of the articles the word “Filed” and the day, month and year of the filing thereof;

- (b) file one of the duplicates in his office; and

- (c) issue to the incorporators or their agent a certificate of incorporation to which he shall affix the other duplicate.

Idem

- (2) A co-operative comes into existence upon the date set forth in its certificate of incorporation.

Idem

- (3) A certificate of incorporation is conclusive proof that all conditions precedent required to be performed by the incorporators have been complied with and that the co-operative has been incorporated under this Act, except in a proceeding under section 166 to cancel the certificate for cause. 1973, c. 101, s. 6.

NAME

Use of
“co-
operative”

- 7.**—(1) The corporate name of a co-operative shall include the word “co-operative” as part thereof.

Idem

- (2) Where a co-operative or any director, officer, employee or member uses the name of the co-operative, the word “co-operative” may be abbreviated to “co-op”.

Idem

- (3) No corporation, association, partnership or individual not being a co-operative to which this Act applies shall use in

Ontario a name that includes the word "co-operative" or any abbreviation or derivation thereof whether or not the word, abbreviation or derivation is used in or in connection with the name.

(4) Subsection (3) does not apply to a corporation incorporated ^{Idem} by or under the authority of the Parliament of Canada, to a corporation granted an extra-provincial licence, to a corporation incorporated under the laws of Ontario before the 12th day of April, 1917, or to a corporation to which the *Credit Unions and Caisses Populaires Act* applies. 1973, c. 101, s. 7 (1-4). ^{R.S.O. 1980, c. 102}

(5) Subject to subsection (6), the name of a co-operative incorporated after the 31st day of March, 1974 shall have the word "Incorporated" or "Corporation" or its corresponding abbreviation "Inc." or "Corp." as the last word thereof. 1978, c. 86, s. 2. ^{Use of "Incorporated", "Corporation"}

(6) Where a co-operative has share capital, the name of the co-operative may have the word "Limited" or its abbreviation "Ltd." as the last word thereof. 1973, c. 101, s. 7 (6). ^{Use of "Limited"}

8. Notwithstanding section 7, a co-operative may use its name in such form and in such language as the articles provide and as the Minister approves. 1973, c. 101, s. 8. ^{Use of name}

9.—(1) The name of a co-operative shall not,

^{Co-operative name}

(a) be the same as or similar to the name of a known corporation, association, partnership or individual whether in existence or not if its use would be likely to deceive, except where the corporation, association, partnership or individual signifies its or his consent in writing to the use of the name in whole or in part, and, if required by the Minister,

(i) in the case of a corporation, undertakes to dissolve or change its name to a dissimilar name within six months after the filing of the articles or amendment by which the name is acquired, or

(ii) in the case of an association, partnership or individual, undertakes to cease to carry on its or his business or activities, or change its or his name to a dissimilar name, within six

months after the filing of the articles or amendment by which the name is acquired ;

- (b) suggest or imply a connection with the Crown or the Government of Canada or the government of a municipality or any province or territory of Canada or any department, branch, bureau, service, agency or activity of any such government or municipality without the consent in writing of the appropriate authority ;
- (c) suggest or imply a connection with a political party or a leader of a political party ;
- (d) contain any word or phrase that indicates or implies that it is incorporated for any object other than one or more of the objects set out in its articles ;
- (e) contain any word or phrase or any abbreviation or derivation thereof, the use of which is prohibited or restricted under any other Act unless in the latter case the restrictions are complied with ; or
- (f) in the opinion of the Minister, be objectionable on any public grounds.

Change of
name if
objectionable

(2) If a co-operative through inadvertence or otherwise has acquired a name contrary to subsection (1), the Minister may, after he has given the co-operative an opportunity to be heard, issue a certificate of amendment to the articles changing the name of the co-operative to the name specified in the certificate, and, upon the issuance of the certificate of amendment, the articles are amended accordingly.

Failure to
perform
undertaking

(3) Where an undertaking referred to in clause (1) (a) is given by a co-operative and the undertaking is not carried out within the time specified, the Minister may, after giving the co-operative an opportunity to be heard, issue a certificate of amendment to the articles changing the name of the co-operative to the name specified in the certificate, and, upon the issuance of the certificate of amendment, the articles are amended accordingly.

Idem

(4) Where an undertaking referred to in clause (1) (a) is given by a corporation to which this Act does not apply or by an association, partnership or individual and the undertaking is not carried out within the time specified, the Minister may, after giving the

co-operative that acquired the name by virtue of such undertaking an opportunity to be heard, issue a certificate of amendment to the articles changing the name of the co-operative to the name specified in the certificate, and, upon the issuance of the certificate, the articles are amended accordingly. 1973, c. 101, s. 9.

10. A change in the name of a co-operative does not affect its rights or obligations. 1973, c. 101, s. 10.

Change not to affect rights, etc.

11. Where a co-operative carries on business or identifies itself to the public in a name or style other than as provided in the articles, such name or style shall not include the word "Limited", "Incorporated" or "Corporation" or any abbreviation thereof. 1973, c. 101, s. 11.

Unauthorized use of "Limited", etc.

12.—(1) Any person may, on application in writing and on the payment of the prescribed fee, reserve a corporate name for the use and benefit of the applicant or his nominee for a period of ninety days or such lesser period as he specifies, if the name is at the time not contrary to section 9.

Reservation of name

(2) During the period for which the name has been reserved, no corporation shall acquire the name or a similar name without the consent in writing of the person for whose use and benefit the name has been reserved. 1973, c. 101, s. 12.

Idem

SEAL AND HEAD OFFICE

13.—(1) A co-operative shall have a seal which shall be adopted and may be changed by resolution of the directors.

Corporate seal

(2) The name of the co-operative shall appear in legible characters on the seal. 1973, c. 101, s. 13.

Idem

14.—(1) Subject to subsection (2), a co-operative shall at all times have its head office at the place in Ontario where the articles provide that the head office is to be located.

Head office

(2) A co-operative may by by-law change the municipality or geographic township in which its head office is located to another place in Ontario.

Change of head office

(3) Where the location of the head office of a co-operative is changed by reason only of the annexation or amalgamation of the place in which the head office is located

Where municipality annexed or amalgamated

to or with another municipality, such change does not constitute and has never constituted a change within the meaning of subsection (2).

Filing of
by-law

(4) The co-operative shall, within ten days after a by-law passed under subsection (2) has been confirmed by the members, file a certified copy of the by-law with the Minister.

Change of
street
address

(5) A co-operative may by resolution of the directors change the location of its head office within a municipality or geographic township and shall, within ten days after the passing of the resolution, file with the Minister notice of the change giving the address including the street and number, if any, of the new location.

Validity

(6) Failure to comply with subsection (4) or (5) does not affect the validity of the by-law or resolution. 1973, c. 101, s. 14.

POWERS

General

Corporate
charac-
teristics

15.—(1) Every co-operative has power,

- (a) to have perpetual succession;
- (b) to contract and sue and be sued in its corporate name; and
- (c) to carry on business in or identify itself to the public by a name or style other than its corporate name.

Incidental
powers

(2) A co-operative has power as incidental and ancillary to the objects set out in its articles,

- 1. to carry on any other business capable of being conveniently carried on in connection with its business or likely to enhance the value of any of its property or rights;
- 2. to acquire or undertake the whole or any part of the business, property and liabilities of any person carrying on any business that the co-operative is authorized to carry on;
- 3. to apply for, register, purchase, lease, acquire, hold, use, control, license, sell, assign or dispose of patents, patent rights, copyrights, trade marks, formulae, licences, inventions, processes, distinctive marks and similar rights;

4. to enter into partnership or into any arrangement for sharing of profits, union of interests, co-operation, joint adventure, reciprocal concession or otherwise with any person or corporation carrying on or engaged in or about to carry on or engage in any business or transaction that the co-operative is authorized to carry on or engage in or any business or transaction capable of being conducted so as to benefit the co-operative ;
5. where authorized to do so by resolution of the board of directors and where it is necessary to enable the co-operative to improve its services to its members, to take or otherwise acquire and hold securities in any other corporation having objects altogether or in part similar to those of the co-operative or carrying on any business capable of being conducted so as to benefit the co-operative ;
6. to lend money to any other corporation or any firm or person having dealings with the co-operative or with whom the co-operative proposes to have dealings or to any other corporation any of whose shares are held by the co-operative ;
7. to apply for, secure or acquire by grant, legislative enactment, assignment, transfer, purchase or otherwise, and to exercise, carry out and enjoy any charter, licence, power, authority, franchise, concession, right or privilege, that any government or authority or any corporation or other public body may be empowered to grant, and to pay for, aid in and contribute towards carrying it into effect and to assume any liabilities or obligations incidental thereto ;
8. to establish and support or aid in the establishment and support of associations, institutions, funds or trusts for the benefit of employees or former employees of the co-operative or its predecessors, or the dependants or connections of such employees or former employees, and grant pensions and allowances, and make payments towards insurance or for any object similar to those set forth in this paragraph, and to subscribe or guarantee money for charitable, benevolent, educational or religious objects or for any exhibition or for any public, general or useful objects ;
9. to promote any corporation for the purpose of acquiring or taking over any of the property and liabilities of the co-operative or for any other purpose that may benefit the co-operative ;

10. to purchase, lease, take in exchange, hire or otherwise acquire any personal property and any rights or privileges that the co-operative considers necessary or convenient for the purposes of its business;
11. to construct, maintain and alter any buildings or works necessary or convenient for its objects;
12. to acquire by purchase, lease or otherwise and hold any land or interest therein necessary for its actual use and occupation or for carrying on its undertaking, and, when no longer necessary therefor, to sell, alienate or convey it;
13. to take, hold and alienate real and personal property that has in good faith been mortgaged to the co-operative by way of security for, or conveyed to it in satisfaction of, debts previously contracted in the course of its business, or purchased at judicial sales upon levy for such indebtedness, or otherwise purchased for the purpose of avoiding a loss to the co-operative;
14. to construct, improve, maintain, work, manage, carry out or control any roads, ways, tramways, branches or sidings, bridges, reservoirs, water-courses, wharves, manufactories, warehouses, electric works, shops, stores and other works and conveniences that may advance the interests of the co-operative and contribute to, subsidize or otherwise assist or take part in the construction, improvement, maintenance, working, management, carrying out or control thereof;
15. to raise and assist in raising money for, and aid by way of bonus, loan, promise, endorsement, guarantee or otherwise, any person or corporation and guarantee the performance or fulfilment of any contracts or obligations of any person or corporation, and in particular guarantee the payment of the principal of and interest on the debt obligations of any such person or corporation;
16. to draw, make, accept, endorse, discount, execute and issue bills of exchange, promissory notes, bills of lading, warrants and other negotiable or transferable instruments;
17. where authorized to do so by a special resolution and by such additional authorization as the articles provide, to sell, lease, exchange or otherwise dispose

of all or substantially all the property of the co-operative for such consideration as the co-operative thinks fit;

18. to sell, improve, manage, develop, exchange, lease, dispose of, turn to account or otherwise deal with the property of the co-operative in the ordinary course of its business;
19. to adopt such means of making known the products or services of the co-operative as may seem expedient, and in particular by advertising, by purchase and exhibition of works of art or interest, by publication of books and periodicals and by granting prizes and rewards and making donations;
20. to cause the co-operative to be registered and recognized in any foreign jurisdiction or any province or territory of Canada, and designate persons therein according to the laws of that foreign jurisdiction or that province or territory of Canada to represent the co-operative and to accept service for and on behalf of the co-operative of any process or suit;
21. to allot and issue fully-paid shares of the co-operative in payment or part payment of any property purchased or otherwise acquired by the co-operative or for any past services performed for the co-operative;
22. to distribute among the members of the co-operative in cash, kind, specie or otherwise as may be resolved, by way of dividend, bonus or in any other manner deemed advisable, any property of the co-operative, but not so as to decrease the capital of the co-operative unless the distribution is made for the purpose of enabling the co-operative to be dissolved or the distribution, apart from this paragraph, would be otherwise lawful;
23. to establish agencies and branches;
24. to take or hold mortgages, hypothecs, liens and charges to secure payment of the purchase price, or of any unpaid balance of the purchase price, of any part of the property of the co-operative of whatsoever kind sold by the co-operative, or for any money due to the co-operative from purchasers and others and to sell or otherwise dispose of any such mortgage, hypothec, lien or charge;

25. to pay all costs and expenses of or incidental to the incorporation and organization of the co-operative;
26. to invest and deal with the moneys of the co-operative not immediately required for the objects of the co-operative in such manner as may be determined;
27. to do any of the things authorized by this subsection and all things authorized by its articles as principals, agents, contractors, trustees or otherwise, and either alone or in conjunction with others;
28. to do all such other things as are incidental or conducive to the attainment of the objects and the exercise of the powers of the co-operative.

Limited
by articles

(3) Any of the powers set out in subsection (2) may be withheld or limited by the articles.

Powers to
act outside
of Ontario

(4) Every co-operative may exercise its powers beyond the boundaries of Ontario to the extent to which the laws in force where the powers are sought to be exercised permit, and may accept extra-provincial powers and rights. 1973, c. 101, s. 15.

Acting
outside
powers

16.—(1) No act of a co-operative and no transfer of real or personal property to or by a co-operative, otherwise lawful, that is heretofore or hereafter done or made, is invalid by reason of the fact that the co-operative was without capacity or power to do such act or make or receive such transfer, but such lack of capacity or power may be asserted,

- (a) in a proceeding against the co-operative by a member under subsection (2);
- (b) in a proceeding by the co-operative, whether acting directly or through a receiver, liquidator, trustee or other legal representative or through members in a representative capacity, against a director or officer or former director or officer of the co-operative; or
- (c) as cause for the cancellation of the certificate of incorporation of the co-operative under section 166.

Restraining
order

(2) A member of a co-operative may apply to a court of competent jurisdiction for an order to restrain the co-operative from doing any act or transferring or receiving the transfer of real or personal property on the ground that the co-operative lacks capacity or power for the purpose, and the court may, if it considers it to be just and equitable, grant an order prohibiting the co-operative from doing the act or transferring

or receiving the transfer of the real or personal property, but, where the act or transfer sought to be restrained or prohibited is being or to be done or made under a contract to which the co-operative is a party,

- (a) all the parties to the contract shall be parties to the proceeding;
- (b) the court in granting the order may set aside the contract and allow the co-operative or other parties to the contract, as the case may be, such compensation as may be equitable for the loss or damage sustained by any of them from the granting of the order and setting aside of the contract, other than anticipated profits from the contract. 1973, c. 101, s. 16.

17.—(1) A co-operative shall not make loans to any of its members, directors or employees or give directly or indirectly, by means of a loan, guarantee, the provision of security or otherwise, any financial assistance to any member, director or employee, except in the course of transactions of a type available to all members of the co-operative.

Loans to
members,
directors,
etc.

(2) Those directors and officers of a co-operative who authorize or consent to making a loan or giving financial assistance in contravention of subsection (1) are jointly and severally liable to the co-operative and to its creditors for any actual loss to the co-operative together with interest at the rate of 6 per cent a year. 1973, c. 101, s. 17.

Liability of
directors
and officers

Contracts

18.—(1) A contract that if entered into by an individual person would by law be required to be in writing and under seal may be entered into on behalf of a co-operative in writing under the seal of the co-operative.

Contracts in
writing
under seal

(2) A contract that if entered into by an individual person would by law be required to be in writing signed by the parties to be charged therewith may be entered into on behalf of a co-operative in writing signed by any person acting under its authority, express or implied.

Contracts in
writing not
under seal

(3) A contract that if entered into by an individual person would by law be valid although made by parol only and not reduced into writing may be entered into by parol on behalf of a co-operative by any person acting under its authority, express or implied. 1973, c. 101, s. 18.

Parol
contracts

Power of
attorney

19. A co-operative may, by writing under seal, empower any person, either generally or in respect of any specified matters, to execute, as its attorney and on its behalf in any place within or outside Ontario, documents to which it is a party in any capacity and that are required by law to be under seal, and every document signed by such attorney on behalf of the co-operative acting within the scope of his authority, express or implied, and under his seal binds the co-operative and has the same effect as if it were under the seal of the co-operative. 1973, c. 101, s. 19.

Interpre-
tation

20.—(1) In this section,

- (a) “contractor” means a person who enters into a preincorporation contract in the name of or on behalf of a co-operative before its incorporation;
- (b) “other party” means a person with whom a contractor enters into a preincorporation contract;
- (c) “preincorporation contract” means a contract entered into by a contractor in the name of or on behalf of a co-operative before its incorporation.

Adoption of
preincor-
poration
contracts

(2) A co-operative may adopt a preincorporation contract entered into in its name or on its behalf, and thereupon the co-operative is entitled to the benefits and is subject to the liabilities that were contracted in its name or on its behalf and the contractor ceases to be entitled to such benefits or to be subject to such liabilities.

Non-
adoption of
preincor-
poration
contracts

(3) Where a preincorporation contract is not adopted by a co-operative, the contractor is entitled to the benefits and subject to the liabilities under the contract and is entitled to recover from the co-operative the value of any benefit received by the co-operative under the contract.

Application
to court
for relief

(4) Whether or not a preincorporation contract is adopted by the co-operative, the other party may apply to the court which may, notwithstanding subsections (2) and (3), make an order fixing or apportioning liability as between the contractor and the co-operative in any manner the court considers just and equitable under the circumstances. 1973, c. 101, s. 20.

By-Laws and Resolutions

By-laws

21. The directors may pass by-laws not contrary to this Act or to the articles to regulate,

- (a) the allotment and issue of shares, the payment thereof, the issue of share certificates and the transfer and the registration of transfers of shares;
- (b) the admission of persons as members and as *ex officio* members and the qualification of and the conditions of membership;
- (c) the time for and the manner of election of directors;
- (d) the qualification and remuneration of directors including conditions on eligibility of directors of the co-operative by reference to a minimum annual volume of business conducted by a director with the co-operative;
- (e) the appointment, remuneration, functions, duties and removal of agents, officers and employees of the co-operative and the security, if any, to be given by them to it;
- (f) the time and place and the notice to be given for the holding of meetings of the members and of the board of directors, the quorum at meetings of members and the procedure in all things at members' meetings and at meetings of the board of directors;
- (g) the payment of fees and dues of members;
- (h) the issue of membership cards and loan certificates;
- (i) the suspension and termination of memberships by the co-operative and by the members;
- (j) the conduct in all other particulars of the affairs of the co-operative. 1973, c. 101, s. 21.

22. A by-law relating to the remuneration of a director as director shall fix the remuneration and the period for which it is to be paid. 1973, c. 101, s. 22.

Remuneration of directors

23. No by-law is effective until it is,

Passing of by-laws

- (a) passed by the directors of a co-operative; and
- (b) confirmed, with or without variation, by at least two-thirds of the votes cast at a general meeting of the members of the co-operative duly called for that purpose, or such greater proportion of the votes cast as the articles provide. 1973, c. 101, s. 23.

*Member Groups and Delegates*By-laws
re delegates

- 24.**—(1) The directors may pass by-laws providing for,
- (a) the division of its members into groups, either territorially or on the basis of common interest;
 - (b) the election of some or all of its directors,
 - (i) by such groups on the basis of the number of members in each group or the volume of business done by each group with the co-operative, or both, or
 - (ii) for the groups in a defined geographical area, by the delegates of such groups meeting together;
 - (c) the election of delegates and alternate delegates to represent each group on the basis of the number of members in each group or the volume of business done by each group with the co-operative, or both;
 - (d) where a member is a co-operative, the election or appointment of delegates and alternate delegates to represent the member co-operative on the basis of the number of members in the member co-operative or the volume of business done with the co-operative, or both;
 - (e) the method of electing or appointing delegates and the number of delegates;
 - (f) the holding of meetings of delegates;
 - (g) the authority of delegates at meetings or providing that a meeting of delegates shall for all purposes be deemed to be and to have all the powers of a meeting of the members;
 - (h) the holding of meetings of members or delegates territorially or on the basis of common interest;
 - (i) the payment of remuneration and expenses of delegates attending meetings. 1973, c. 101, s. 24 (1); 1978, c. 86, s. 3 (1).

(2) A delegate has only one vote and shall not vote by ^{Voting} proxy. 1973, c. 101, s. 24 (2).

(3) No person shall be elected or appointed a delegate ^{Qualifi-} who is not a member, officer or director of the co-operative ^{cation} or of a member co-operative. 1978, c. 86, s. 3 (2).

(4) No by-law under subsection (1) shall prohibit members from ^{Saving} attending meetings of delegates and participating in the discussions at such meetings. 1973, c. 101, s. 24 (4).

CAPITAL

Authorized Capital

25.—(1) The authorized capital of a co-operative shall ^{Shares} be divided into shares with par value and may consist of shares of more than one class.

(2) Each class of shares shall have a par value of \$1 or ^{Par value} any multiple thereof not exceeding \$100.

(3) The authorized capital of the co-operative shall be ^{Authorized} expressed in Canadian currency in its articles and is an ^{capital} amount equal to the total of the products of the number of shares of each class multiplied by the par value thereof. 1973, c. 101, s. 25.

26.—(1) The common shares of a co-operative shall be shares ^{Common} to which there is attached no preference, right, condition, ^{shares} restriction, limitation or prohibition set out in the articles of the co-operative other than the restriction on the allotment, issue or transfer.

(2) Where a co-operative has only one class of shares, ^{Classes of} that class shall be common shares and designated as co- ^{shares} operative or co-op common shares.

(3) Where a co-operative has more than one class of shares, ^{Idem} one class shall be common shares, designated as provided in subsection (2), and the other shares shall consist of one or more classes of preference shares and shall have attached thereto the designation co-operative or co-op preference shares and such other designation and preferences, rights, conditions, restrictions, limitations or prohibitions as set out in the articles.

Preference
shares

(4) No class of preference shares shall be designated as preference shares or by words of like import, unless the class has attached thereto a preference or right over the common shares. 1973, c. 101, s. 26.

Preferences,
rights, etc.

27. A co-operative may issue one or more classes of preference shares having attached thereto preferences, rights, conditions, restrictions, limitations or prohibitions, including but not limited to,

- (a) the right to cumulative, non-cumulative or partially cumulative dividends;
- (b) a preference over any other class or classes of shares as to the payment of dividends;
- (c) a preference over any other class or classes of shares as to the repayment of the par value together with any dividends declared but unpaid upon the dissolution of the co-operative or otherwise;
- (d) the right of the co-operative to redeem, without the consent of the holders thereof, all or a part of the shares of that class at their par value together with any dividends declared but unpaid. 1973, c. 101, s. 27.

Equality of
shares of
a class

28. Each share of a class shall be the same in all respects as every other share of that class. 1973, c. 101, s. 28.

Issued Capital

Issued
capital

29. The issued capital of a co-operative shall be expressed in Canadian currency and is an amount equal to the total of the products of the number of issued shares of each class multiplied by the par value thereof less such decreases in the issued capital as from time to time have been effected by the co-operative in accordance with this Act. 1973, c. 101, s. 29.

Cancellation
of par share

30.—(1) Where an issued share of a class is cancelled, the issued capital is decreased by an amount equal to the par value of the shares of that class.

Cancellation
of fractions
of shares

(2) Where a fraction of an issued share of a class is cancelled, the issued capital is decreased by an amount that bears the

same proportion to the amount determined under subsection (1) that the fraction bears to a whole share of that class. 1973, c. 101, s. 30.

Redemption, Purchase and Surrender

31.—(1) Where the articles provide that the shares of a class of preference shares are redeemable without the consent of the holders thereof and part only of the preference shares are to be redeemed, the shares to be redeemed shall be selected,

Redemption
of preference
shares

- (a) by lot in such manner as the board of directors determines;
- (b) as nearly as may be in proportion to the number of preference shares of the class registered in the name of each holder of shares of that class; or
- (c) in such other manner as the board of directors determines with the consent of the holders of preference shares of the class obtained in the manner set out in subsection (2),

but the articles may confine the manner of selection to one or more of those methods set out in clauses (a), (b) and (c).

(2) A co-operative shall not redeem shares under subsection (1) if the co-operative is insolvent or if the redemption would render the co-operative insolvent.

Insolvency

(3) Where shares of a class of preference shares are selected in the manner referred to in clause (1) (c), the selection shall be consented to in writing by,

Method of
redemption

- (a) all the holders of the preference shares of the class;
or
- (b) at least 95 per cent of the holders of the preference shares of the class holding at least 95 per cent of the issued shares of that class if, after twenty-one days notice has been given by sending notice to each of the holders of shares of that class addressed to him at his latest address as shown on the records of the co-operative, none of the holders of shares of that class dissents in writing to the co-operative.

(4) Where a holder of redeemable preference shares of a co-operative dies or leaves its employment, notwithstanding subsection (1), it may within one year of such event redeem

Idem

all or any of the preference shares held by him. 1973, c. 101, s. 31.

Purchase of
preference
and common
shares

32.—(1) Subject to subsection (2), a co-operative,

- (a) with the consent of the holder thereof, may purchase all or a part of the shares in the co-operative held by any person upon payment of such an amount to that person as is agreed upon not exceeding the par value of the shares together with any dividends declared but unpaid;
- (b) when a corporate member is about to be dissolved or a member has failed for a period of two years to transact any business with the co-operative, may redeem without the consent of such member his shares upon payment to him of an amount equal to the book value or par value of such shares, whichever is the lesser. 1973, c. 101, s. 32 (1); 1978, c. 86, s. 4 (1).

Insolvency

(2) A co-operative shall not purchase or redeem shares under subsection (1) if the co-operative is insolvent or if the purchase would render the co-operative insolvent. 1973, c. 101, s. 32 (2).

Method

(3) Where shares are purchased or redeemed by a co-operative under subsection (1) or where preference shares are redeemed pursuant to the articles,

- (a) if the articles so require, the shares shall be cancelled and thereupon the authorized and issued capital of the co-operative are thereby decreased, and the articles are amended accordingly;
- (b) if the articles do not require the shares to be cancelled,
 - (i) the board of directors may at the time of the purchase or redemption cancel the shares in which case the authorized and issued capital of the co-operative are thereby decreased and the articles are amended accordingly; or
 - (ii) the board of directors may resell the shares at such time as it determines for a consideration equal to the product of the number of shares resold multiplied by the par value thereof. 1973, c. 101, s. 32 (3); 1978, c. 86, s. 4 (2).

33.—(1) A co-operative may accept from any member a donation of any of its shares without any repayment of capital in respect thereof. 1973, c. 101, s. 33 (1). Donation
of shares

(2) Shares accepted under subsection (1) are not thereby cancelled and the board of directors may sell the shares at such time as it determines for a consideration equal to the product of the number of shares sold multiplied by the par value thereof. 1978, c. 86, s. 5. Sale of
donated
shares

Offering Statement

34.—(1) No co-operative or person shall sell, dispose of, or accept directly or indirectly any consideration for securities of the co-operative where the co-operative has more than fifteen security holders, or where the sale or disposition of or acceptance of consideration for such securities would have the effect of increasing the number of security holders in the co-operative to more than fifteen, unless the co-operative has filed with the Minister an offering statement and has obtained a receipt therefor. Offering
statement

(2) Subsection (1) does not apply to,

Exception

(a) the issue of shares under subsection 56 (1) or of debt obligations under subsection 56 (4); or

(b) a co-operative that has filed with the Ontario Securities Commission both a preliminary prospectus and a prospectus in respect of the offering of its securities and receipts therefor have been obtained from the Director of the Ontario Securities Commission and copies thereof have been filed with the Minister. 1978, c. 86, s. 6.

35.—(1) An offering statement shall provide full, true and plain disclosure of all material facts relating to the securities proposed to be issued. Standard of
disclosure

(2) An offering statement shall comply as to form and content with the requirements of this Act and the regulations. Form and
content

(3) There shall be filed with an offering statement such documents, reports and other material as are required by this Act and the regulations. Supporting
material

(4) Where there is a material change in the facts set forth in an offering statement, whether before or after the issuance Material
changes

of a receipt therefor, the co-operative shall, within thirty days of that change, file with the Minister a statement of such change.

Further
statements

(5) A co-operative may, and shall if required by the Minister, file a further offering statement revised to give effect to all previous material changes in place of the statement of material change mentioned in subsection (4). 1973, c. 101, s. 35.

Issue of
receipts

36.—(1) The Minister may in his discretion issue a receipt for any statement filed under section 34 or subsection 35 (4) or (5) unless it appears to the Minister that,

- (a) the statement or any document required to be filed therewith,
 - (i) fails to comply in any substantial respect with any of the requirements of this Act or the regulations,
 - (ii) contains any statement, promise, estimate or forecast that is misleading, false or deceptive, or
 - (iii) conceals or omits to state any material facts necessary in order to make any statement contained therein not misleading in the light of the circumstances in which it was made; or
- (b) the proceeds from the sale of the securities to which the statement relates that are to be paid into the treasury of the co-operative, together with other resources of the co-operative, are insufficient to accomplish the purpose of the issue stated in the statement.

Idem

(2) The Minister shall not make any determination under subsection (1) without making an order or ruling in writing and without giving the co-operative that filed the statement a prior opportunity to be heard. 1973, c. 101, s. 36.

Inspection of
statement

37.—(1) A copy of a statement for which the Minister has issued a receipt under section 36 shall be open to inspection,

- (a) at the offices of the Ministry; and
- (b) during normal business hours, at the head office of the co-operative.

(2) No person shall refuse to permit a person to inspect such statements or to make extracts therefrom. 1973, c. 101, s. 37. ^{Extracts}

38. A co-operative already in existence when this Act comes into force shall have a period of 180 days from that date during which to comply with sections 34 to 37. 1973, c. 101, s. 38. ^{Transition}

Allotment, Issue and Transfer

39.—(1) Shares shall not be allotted or issued except for a consideration equal to the product of the number of shares allotted or issued multiplied by the par value thereof. 1973, c. 101, s. 39 (1); 1978, c. 86, s. 7. ^{Issue of shares}

(2) No share shall be issued until it is fully paid and a share is not fully paid until all the consideration therefor in cash, property or services, as determined under this section, has been received by the co-operative. ^{Consideration for shares}

(3) For the purposes of subsection (2) and paragraph 21 of subsection 15 (2), a document evidencing indebtedness of the allottee does not constitute property, and services shall be past services actually performed for the co-operative, and the value of property or services shall be the value the directors determine by express resolution to be in all the circumstances of the transaction the fair equivalent of the cash value. 1973, c. 101, s. 39 (2, 3). ^{Idem}

40. No transfer of common shares in a co-operative with share capital, unless made by sale under execution or under the decree, order or judgment of a court of competent jurisdiction or by transmission to the personal representative of a member, is valid for any purpose unless, ^{Restriction on transfer of common shares}

- (a) the transfer has been authorized by resolution of the directors of the co-operative or by a person authorized by such a resolution to approve such transfers;
- (b) the transferee is admitted to membership in the co-operative as required by its articles and by-laws; and
- (c) the entry thereof has been duly made in the register of transfers of the co-operative or in a branch register of transfers,

except only as evidence of the rights of the parties thereto towards each other. 1973, c. 101, s. 40.

41.—(1) A co-operative may provide by by-law for the payment of commissions to persons in consideration of their ^{Commission on sale of shares}

procuring subscriptions for shares in the co-operative, but no such commission shall exceed 10 per cent of the par value of the shares.

No
unauthorized
commission

(2) Except as provided in subsection (1), no co-operative shall apply any of its shares or capital, either directly or indirectly, in payment of any commission to any person in consideration of his procuring subscriptions for shares of the co-operative, whether the shares or capital is so applied by being added to the purchase money of any property acquired by the co-operative or to the contract price of any work to be executed for the co-operative, or is paid out of the nominal purchase money or contract price or otherwise. 1978, c. 86, s. 8.

Shares
personal
property

42. The shares of a co-operative are personal property and are transferable in such manner and subject to such conditions and restrictions as are prescribed by this Act and the articles of the co-operative. 1973, c. 101, s. 42.

Lien on
shares

43. Where a member is indebted to the co-operative for goods or services, and where the articles or by-laws so provide, the co-operative has a lien to the extent of the debt on the shares registered in the name of the member. 1978, c. 86, s. 9.

Share and Loan Certificates

Share and
loan
certificates

44.—(1) Every member is entitled to a share or loan certificate in respect of the shares held or loans made by him, signed by the proper officers in such form as the by-laws of the co-operative provide, but in no case is the co-operative bound to issue more than one share or loan certificate in respect of a share or shares held or a loan made jointly by several persons, and delivery of a share or loan certificate to one of several joint holders or lenders is sufficient delivery to all.

Fee

(2) A co-operative may charge a fee of not more than \$1 for every share certificate issued, except that in the case of the allotment and issue of shares, no fee shall be charged. 1973, c. 101, s. 44.

Signing of
certificate

45. A share or loan certificate shall be signed manually by at least one officer of the co-operative or by or on behalf of a transfer agent of the co-operative, and the co-operative may by by-law provide that any additional signatures required on share or loan certificates may be printed, engraved, lithographed or otherwise mechanically reproduced thereon, and in such event share or loan certificates so signed are as valid as if they had been signed manually. 1973, c. 101, s. 45.

46.—(1) Every share or loan certificate shall state upon its face, Contents of certificates

- (a) the name of the co-operative and the words “A co-operative incorporated under the law of the Province of Ontario” or words of like effect;
- (b) the name of the person to whom the share or loan certificate is issued as holder;
- (c) the amount, maturity date and annual rate of interest where the certificate represents a loan;
- (d) the number and class of shares represented thereby and the par value thereof where the certificate represents shares;
- (e) a statement of the dividend rate, where applicable.

(2) Every share certificate shall have noted conspicuously thereon the words “Transfer of these shares is restricted”. Restrictions to be noted

(3) Where the articles or by-laws provide that a co-operative has a lien on shares as authorized by section 43, the right of the co-operative to the lien shall be noted conspicuously on every share certificate issued by the co-operative. Notice of lien

(4) In this section, “noted conspicuously” means written in such a way that the person against whom words so noted or appearing are to operate ought reasonably to notice them. Interpretation
1973, c. 101, s. 46.

47.—(1) A share certificate issued for a share of a class of preference shares shall, Contents of preference share certificate

- (a) legibly state on the certificate or have attached thereto a legible statement of the preferences, rights, conditions, restrictions, prohibitions or limitations attaching to that class of shares; or
- (b) legibly state on the certificate that there are preferences, rights, conditions, restrictions, prohibitions or limitations attaching to that class and that a copy of the full text thereof is obtainable on demand and without fee from the co-operative.

(2) Where a share certificate contains a statement as provided in clause (1) (b), the co-operative shall furnish to the holder of the shares on demand without fee a copy of the full text of the preferences, rights, conditions, restrictions, prohibitions and limitations attaching to the share. 1973, c. 101, s. 47. Idem

Fractional
shares

48. Where, as a result of a change in authorized capital of a co-operative, a person becomes entitled to a fraction of a share, he is not entitled to be registered on the records of the co-operative in respect thereof or to receive a share certificate therefor, but he is entitled to receive a bearer fractional certificate in respect of such fraction, and on presentation at the head office of the co-operative or at a place designated by the co-operative of bearer fractional certificates for fractions that together represent a whole share, a share certificate for a whole share shall be issued in exchange therefor. 1973, c. 101, s. 48.

Loan Capital

Member
loans

49.—(1) The capital of co-operatives without share capital may be in the form of loans from members, called "member loans", and such loans may be in such amounts, payable on demand or at such times and without interest or at interest not exceeding 10 per cent per annum, or if authorized by by-law of the co-operative, at such a lesser rate as the board of directors may by resolution determine. 1973, c. 101, s. 49 (1); 1978, c. 86, s. 10 (1).

Borrowing
from
members

(2) A co-operative may borrow money from its members not being loans made as a condition of membership or as compulsory loans of patronage returns, in such amounts payable on demand or at such times and either without interest or with interest at such rate as the by-laws provide or, if authorized by by-law, at such rate as the directors may by resolution determine. 1973, c. 101, s. 49 (2).

Termination
of
membership

(3) Where a member of a co-operative without share capital,

(a) has failed to transact any business with the co-operative for a period of two years; or

(b) is a corporate member about to be dissolved,

then the directors of the co-operative may, by resolution passed by a majority of the board, terminate the membership and upon termination the co-operative, subject to section 67, shall repay to the member the amount outstanding on loans to the co-operative that are repayable on demand by the member together with interest accrued thereon. 1978, c. 86, s. 10 (2).

Borrowing Powers

Borrowing
powers

50.—(1) Where authorized by by-law, the directors may,

(a) borrow money on the credit of the co-operative; or

(b) issue, sell or pledge debt obligations of the co-operative; or

(c) charge, mortgage, hypothecate or pledge all or any currently owned or subsequently acquired real or personal movable or immovable property of the co-operative, including book debts, rights, powers, franchises and undertaking, to secure any debt obligations or any money borrowed or other debt or liability of the co-operative.

(2) Any by-law referred to in subsection (1) may,

Contents
of by-law

(a) limit the amount to be borrowed as determined by the by-law; and

(b) provide for the delegation by the directors of the powers conferred on them under the by-law to such directors or officers of the co-operative and to such extent and manner as is set out in the by-law. 1973, c. 101, s. 50.

51. Nothing in this Act prohibits the issue of debt obligations in bearer form. 1973, c. 101, s. 51.

Bearer
debt
obligations

52. A condition contained in a debt obligation or in an instrument for securing a debt obligation is not invalid by reason only that the debt obligation is thereby made irredeemable or redeemable only on the happening of a contingency, however remote, or on the expiration of a period, however long. 1973, c. 101, s. 52.

Irredeemable
debt
obligations

53.—(1) Where a co-operative makes a charge, mortgage or other instrument of hypothecation or pledge to secure its debt obligations, the co-operative shall forthwith after the making thereof file a duplicate original or certified copy of the instrument in the office of the Minister, but such filing may be made by any interested person.

Filing
debt
obligations

(2) Where the filing is by an interested person under subsection (1), that person is entitled to recover from the co-operative the amount of any prescribed fee paid by him on such filing.

Recovery
of fee

(3) Subsection (1) does not apply to an instrument filed or registered under any other Act. 1973, c. 101, s. 53.

Exception

DIVIDENDS AND SURPLUS

54. A co-operative may by by-law provide that, before any distribution of surplus arising from the business of the co-operative in each fiscal year is made, the co-operative may,

Reserve
fund and
dividends

(a) set aside reserve funds;

(b) provide for the payment of dividends on the share capital at a rate not to exceed 10 per cent per annum

of the amount paid up thereon or of the par value thereof, whichever is the lesser. 1973, c. 101, s. 54; 1978, c. 86, s. 11.

Surplus

Distribution
of net
surplus

55.—(1) Subject to subsection (4), the surplus arising from the business of a co-operative, other than a direct charge co-operative, in each fiscal year shall be allocated, credited or paid to the members in proportion to the business done by each member with or through the co-operative, computed at a rate in relation to the quantity, quality or value of the goods or products acquired, marketed, handled, dealt in or sold or services rendered by the member or by the co-operative from or on behalf of or to the member, or the co-operative whether as principal or as agent of the member or otherwise, with appropriate differences in the rate for different classes, grades or qualities thereof.

Idem

(2) The co-operative may by by-law provide that part of the surplus may be allocated, credited or paid to non-members at the same or at lesser rates than to members.

Patronage
return

(3) The amount that is allocated, credited or paid to members or non-members in each fiscal year shall be known as the patronage return.

Limitation
of patronage
return

(4) The co-operative may by by-law provide that, where the value of the goods or products acquired, marketed, handled, dealt in or sold, or services rendered by the co-operative from or on behalf of or to any member or non-member in any year does not exceed \$250, or such lesser amount as is specified in the by-law, no patronage return shall be allocated, credited or paid to such member or non-member.

Marketing
boards

(5) Where members of a co-operative are required by a marketing plan established under an Act of the Legislature, or of the Parliament of Canada, to sell or deliver products or goods or render services to or for a marketing board, then for the purposes of making a patronage return to the members of the co-operative, the members shall be deemed to have sold, delivered or rendered those goods, products or services to the co-operative. 1973, c. 101, s. 55.

Investment
of patronage
return

56.—(1) A co-operative may by by-law provide that in each fiscal year the whole, or such part as the directors may by resolution determine, of the patronage return of each member shall be applied to the purchase for the member of a stated number of unissued shares of the co-operative or a stated number of issued shares of the co-operative, if obtainable.

Notice

(2) Where a co-operative has enacted a by-law under subsection (1) and the whole or part of the patronage return of a

member is required to be invested in issued shares, the co-operative shall mail a written notice to each member stating the number of shares to be purchased by him.

(3) Unless within thirty days from the date of mailing of the notice referred to in subsection (2), the member required to purchase issued shares has presented for transfer to himself the number of shares that he is required to purchase, the co-operative may on behalf of such member, Purchase of shares on behalf of member

- (a) purchase the required number of shares from members who are willing to sell such shares;
- (b) pay out of the patronage return of such member the purchase price;
- (c) transfer such shares to the member; and
- (d) issue and forward to such member a certificate representing such shares. 1973, c. 101, s. 56 (1-3).

(4) A co-operative may enact by-laws requiring its members to lend to it the whole, or such part as the directors may determine, of the patronage returns to which they may become entitled in each fiscal year upon such terms and at such rate of interest as the directors, if authorized by by-law, may by resolution determine, but in no case at a rate of interest greater than 10 per cent per annum. 1973, c. 101, s. 56 (4); 1978, c. 86, s. 12. Compulsory borrowing

(5) No member shall be required under this section to purchase issued or unissued shares at a price in excess of the par value thereof or issued shares when no such shares are available for purchase. Idem

(6) Where the co-operative is insolvent, no member shall be required under this section to lend his patronage return or to purchase shares of the co-operative. Idem

(7) This section does not prevent a member from receiving so much of his patronage return as has not been appropriated to loans to the co-operative in accordance with a resolution of the board of directors or the by-laws. 1973, c. 101, s. 56 (5-7). Idem

57.—(1) A co-operative may, when authorized by by-law, deduct a percentage amount from the moneys received by the co-operative on the goods, products or services marketed, handled or dealt in by the co-operative for or on behalf of any member. 1973, c. 101, s. 57 (1). Percentage deductions by co-operative

(2) An amount retained by a co-operative under subsection (1) shall be applied by the co-operative, Idem

- (a) as a loan on such terms and at such rate of interest not exceeding 10 per cent per annum as the by-law provides; or
- (b) as an investment by the member in common shares of the co-operative, but no member shall be required to purchase such shares in the co-operative at a price in excess of the par value thereof. 1973, c. 101, s. 57 (2); 1978, c. 86, s. 13.

Dividends

Power to
declare
dividends

58.—(1) Subject to subsection (2) and the articles of the co-operative, the directors may declare and the co-operative may pay dividends on its issued shares. 1973, c. 101, s. 58 (1).

Not to
exceed 10
per cent

(2) A dividend shall not exceed 10 per cent per annum of the par value of the share. 1973, c. 101, s. 58 (2); 1978, c. 86, s. 14.

Manner of
payment

(3) A dividend may be paid in cash or in property not exceeding in value the amount of the dividend.

When
dividend
not to be
declared

(4) The directors shall not declare and the co-operative shall not pay any dividend when the co-operative is insolvent, or any dividend the payment of which renders the co-operative insolvent or that diminishes its capital. 1973, c. 101, s. 58 (3, 4).

Stock
dividends

59. For the amount of any dividend that the directors may declare payable in cash, they may declare a stock dividend and issue therefor shares of the co-operative as fully paid. 1973, c. 101, s. 59.

MEMBERS

Membership

Membership

60.—(1) Subject to the provisions of this Act and the articles of the co-operative, membership therein is governed by the by-laws of the co-operative.

Classes of
membership

(2) The articles of a co-operative may provide for more than one class of membership and in that case shall set forth the designation of and the terms and conditions attaching to each class. 1973, c. 101, s. 60.

Incor-
porators
deemed
members

61.—(1) Each incorporator of a co-operative who has subscribed for a common share in the co-operative or who has paid a membership fee, if any, shall upon the effective date of incorporation be entered upon the register of members.

(2) No person shall become a member of a co-operative until his application for membership has been approved by the directors and the applicant has complied fully with the by-laws governing admission of members. Applicants for membership

(3) A subscription for common shares in a co-operative with share capital constitutes an application for membership and the allotment of a common share to the applicant constitutes admission to membership. Idem

(4) An application for authorization of the transfer of common shares in a co-operative with share capital constitutes an application for membership and the passing of the resolution authorizing the transfer constitutes admission to membership. Idem
1973, c. 101, s. 61.

62. No transfer of a membership in a co-operative without share capital is valid for any purpose whatever, Restrictions on transfer of memberships

(a) unless a written application for membership by the transferee has been approved by a resolution of the directors of the co-operative or by a person authorized by such a resolution to approve such applications; and

(b) until notification of the approval under clause (a) has been sent the transferee and his name has been entered on a register of members,

except only as evidence of the rights of the parties thereto towards each other. 1973, c. 101, s. 62.

63.—(1) Subject to the by-laws of the co-operative, a person of the full age of sixteen years or more may become a member thereof. Eligible age for members

(2) Any person under the full age of eighteen years admitted to membership in the co-operative is competent to enter into any contract with the co-operative, and with respect to contracts with the co-operative is *sui juris*. Members sui juris 1973, c. 101, s. 63.

64.—(1) Subject to section 67, a member may withdraw from a co-operative by giving to the secretary of the co-operative six months notice of his intention to withdraw. Notice of withdrawal

(2) A deceased member shall be deemed to have given notice to the co-operative on the day of his death of his intention to withdraw. Idem

(3) Subject to subsection (4), where notice of intention to withdraw has been given to a co-operative under subsection (1), Repayment to members on withdrawal

or is deemed to have been given under subsection (2), the co-operative shall, within six months of the receipt thereof,

- (a) purchase for an amount equal to the par value together with all dividends declared but unpaid or for an amount that is less than par value and that is agreed to by the co-operative and the member or his personal representative, all shares in the co-operative held by the member; and
- (b) pay to him or his personal representative all amounts held to his credit, excluding term loans, together with any interest accrued thereon and the amount outstanding on loans made to the co-operative by the member that are repayable on demand by the member together with any interest accrued thereon. 1973, c. 101, s. 64 (1-3).

Election by
member

(4) Notwithstanding subsection (3), a member who has given notice under subsection (1) may elect in such notice to retain all or some of his shares or loans in the co-operative, but such election shall not entitle him to remain a member of the co-operative. 1978, c. 86, s. 15.

Idem

(5) Where an election is made under subsection (4), the person may later withdraw some or all of his shares or loans from the co-operative by giving notice to the co-operative in the manner prescribed by subsection (1), and the co-operative shall, within six months of the receipt thereof,

- (a) purchase the shares at their par value or at a value that is less than par value and that is agreed to by the co-operative and such person;
- (b) pay to him the amounts held to his credit together with any interest accrued thereon; and
- (c) pay to him the amount outstanding on loans repayable on demand together with any interest accrued thereon,

that are referred to in the notice.

Extension
of time for
repayment

(6) Where, in the opinion of the directors of the co-operative, payments in accordance with subsection (3) or (5) would not be in the best interests of the co-operative, the directors may by resolution extend such payments over a period of not more than five years and pay in each year not less than 20 per cent of the amount to be repaid under subsection (3) or (5). 1973, c. 101, s. 64 (5, 6).

Dealing by
co-operative
with personal
representatives

65.—(1) Where a person is shown on the records of a co-operative as holding a share as a personal representative, the receipt by such person is a valid and binding discharge to the co-operative for any payment or other distribution made in

respect of the share whether notice of any trust has been given to the co-operative or not, and the co-operative is not bound to see to the application of such payment or other distribution.

(2) Where shares are purchased by a co-operative under sub-
section 32 (1) or subsection 64 (3) or section 66 or accepted under
subsection 33 (1) and are not thereby cancelled, no person is
entitled to receive notice of or to vote at meetings of members or to
receive any payment in respect of the shares whether by way of
dividend or otherwise until such shares are resold. 1973, c. 101,
s. 65.

Co-operative
not to vote,
etc.

66.—(1) A member may be expelled from membership in
a co-operative by resolution passed by a majority of the
board of directors at a meeting duly called for the purpose
not later than thirty days before the date set for the
annual meeting of the co-operative.

Expulsion of
member

(2) A resolution under subsection (1) is not valid unless,

Validity

- (a) prior written notice is given to the member setting forth the grounds upon which it is sought to expel him;
- (b) the notice is given the member ten days or more before the date of the meeting of the board of directors called to consider the resolution expelling that member; and
- (c) an opportunity is given the member to appear, either personally or by an agent or counsel, to make submissions at the meeting of the board of directors called to consider the resolution expelling that member.

(3) The secretary of the co-operative shall, within five days
of the date of the meeting of the board of directors
referred to in subsection (1), notify the member of the decision of
the board by registered letter addressed to him at his latest known
address.

Notice of
decision

(4) Where a resolution expelling a member is passed under
subsections (1) and (2), the member may appeal the decision of the
board of directors at the next annual or general meeting of mem-
bers and the members by majority vote may confirm, vary or set
aside the resolution.

Appeal by
member

(5) A member who wishes to appeal his expulsion to a
meeting of members shall give notice of his intention to
appeal within twenty-one days of receipt of the notice of
expulsion mentioned in subsection (3), and the directors shall, if
written representations are received seven or more days
before the mailing of the notice of the meeting, at the expense
of the co-operative, forward with the notice of the meeting a

Idem

copy of such representations to each member entitled to receive notice of the meeting.

Effect of
expulsion

(6) Where a member has been expelled, the co-operative shall purchase from the member, within one year after his expulsion became final, at par value all his shares in the capital of the co-operative together with all amounts held to his credit together with any interest accrued thereon and the amount outstanding on loans, made to the co-operative by the member that are repayable on demand by the member together with interest accrued thereon.

Whereabouts
of member
unknown

(7) If the whereabouts of a member is unknown to the co-operative after all reasonable efforts have been made to ascertain his address for the purpose of making payment to him under subsection (6), amounts payable thereunder to him shall be transferred to a reserve fund of the co-operative; and any amounts so transferred shall, if claimed within thirty years after being so transferred by a person who produces evidence to the satisfaction of the directors of the co-operative that he is entitled thereto, be paid over to such person and, after the expiration of such thirty-year period, any amount so transferred shall be forfeited to the co-operative and transferred out of the reserve fund to it. 1973, c. 101, s. 66.

Where
repayment
not to be
made

67.—(1) A co-operative shall not exercise its powers under subsection 49 (3) or section 64 or 66,

- (a) if the co-operative is insolvent or if the exercise of its powers under that section would render the co-operative insolvent; or
- (b) if such exercise of its powers would in the opinion of the board of directors be detrimental to the financial stability of the co-operative. 1973, c. 101, s. 67 (1); 1978, c. 86, s. 16 (1).

Shares to be
cancelled or
resold

(2) Where the shares of a member are acquired under section 64 or 66,

- (a) if the articles so require, the shares shall be cancelled and thereupon the authorized and issued capital of the co-operative are thereby decreased, and the articles are amended accordingly;
- (b) if the articles do not require the shares to be cancelled,
 - (i) the board of directors may at the time of the purchase cancel the shares, in which case the authorized and issued capital of the co-

operative are thereby decreased and the articles are amended accordingly ; or

- (ii) the board of directors may resell the shares at such time as it determines for a consideration equal to the product of the number of shares resold multiplied by the par value thereof. 1973, c. 101, s. 67 (2); 1978, c. 86, s. 16 (2).

Member's Rights

68.—(1) Subject to subsection (2), a member of a co-operative may maintain an action in a representative capacity for himself and all other members of the co-operative suing for and on behalf of the co-operative to enforce any right, duty or obligation owed to the co-operative under this Act or under any other statute or rule of law or equity that could be enforced by the co-operative itself, or to obtain damages for any breach of any such right, duty or obligation. Derivative action

(2) An action under subsection (1) shall not be commenced until the member has obtained an order of the court permitting the member to commence the action. Leave

(3) A member may, upon at least seven days notice to the co-operative, apply to the court for an order referred to in subsection (2), and, if the court is satisfied that, Application for order to commence action

- (a) the member was a member of the co-operative at the time of the transaction or other event giving rise to the cause of action ;
- (b) the member has made reasonable efforts to cause the co-operative to commence or prosecute diligently the action on its own behalf ; and
- (c) the member is acting in good faith and it is *prima facie* in the interests of the co-operative or its members that the action be commenced,

the court may make the order upon such terms as the court thinks fit, except that the order shall not require the member to give security for costs.

(4) At any time or from time to time while the action commenced under this section is pending, the plaintiff may apply to the court for an order for the payment to the plaintiff by the co-operative of reasonable interim costs including solicitor's and counsel fees and disbursements, for which interim costs the plaintiff shall be accountable to the co-operative if the action is dismissed with costs on final disposition at the trial or on appeal. Application for order for interim costs

Trial and
judgment

(5) An action commenced under this section shall be tried by the court and its judgment or order in the cause, unless the action is dismissed with costs, may include a provision that the reasonable costs of the action are payable to the plaintiff by the co-operative or other defendants taxed as between a solicitor and his own client.

Discontin-
uance and
settlement

(6) An action commenced under this section shall not be discontinued, settled or dismissed for want of prosecution without the approval of the court and, if the court determines that the interests of the members may be substantially affected by such discontinuance, settlement or dismissal, the court, in its discretion, may direct that notice in manner, form and content satisfactory to the court shall be given, at the expense of the co-operative or any other party to the action as the court directs to the members thereof whose interests the court determines will be so affected. 1973, c. 101, s. 68.

Rights of
dissenting
members

69.—(1) If, at a meeting of members of a co-operative,

- (a) a resolution passed by the directors authorizing the sale, lease, exchange or other disposition of all or substantially all the property of the co-operative is confirmed with or without variation by the members;
- (b) a resolution approving an agreement for the amalgamation of the co-operative with one or more other co-operatives is passed by the members;
- (c) a resolution passed by the directors approving the conversion of the co-operative into a corporation to which the *Business Corporations Act* applies is confirmed with or without variation by the members;
- (d) a resolution passed by the directors approving the conversion of the co-operative into one with or without share capital is confirmed with or without variation by the members; or
- (e) a resolution passed by the directors under section 159 is confirmed with or without variation by the members,

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any member who has voted against the confirmation of the resolution may within ten days after the date of the meeting give notice in writing to the co-operative requiring it to purchase his shares or refund the amount outstanding on loans made to the co-operative by the member together with any interest accrued thereon.

Co-operative
bound to
purchase
shares

(2) Within ninety days from,

- (a) the date of the completion of the sale, lease, exchange or other disposition;

- (b) the date set forth in the certificate of amendment or amalgamation; or
- (c) the date of delivery to the Minister of a request in writing for his authorization under section 159,

the co-operative, or amalgamated co-operative, shall purchase the shares of, or refund the amount outstanding on loans made to the co-operative by, every member who has given notice under subsection (1), and every such member shall sell or deliver up his securities to the co-operative.

(3) The amount and terms of the purchase of a member's shares shall be at their par value or at a value that is less than par value and that is agreed to by the co-operative and the member together with all amounts held to his credit and with interest accrued thereon. ^{Purchase price}

(4) The amount and terms of the repayment of any loans made by the member to the co-operative shall be at the full amount outstanding together with any interest accrued thereon and unpaid. ^{Idem}

(5) The co-operative shall not purchase any shares or repay any member's loans under subsection (2) or (3) if it is insolvent or if the purchase or repayment would render it insolvent. ^{Saving}

(6) If the sale, lease, exchange or other disposition is not completed, the certificate of amendment or amalgamation is not issued, or the authorization of the Minister is not given, the rights of the dissenting member under this section cease and the co-operative shall not purchase the shares of the member nor refund the amount outstanding on loans made to the co-operative by the member under this section. ^{Idem}

(7) Nothing in this section shall be construed to require a co-operative to repay a member's term loan before the date of maturity. ^{Idem} 1973, c. 101, s. 69.

70.—(1) Ten per cent of the members of a co-operative may requisition the directors to call a meeting of the directors for the purpose of passing any by-law or resolution that may properly be passed at a meeting of the directors duly called, constituted and held for that purpose. ^{Requisition for by-law or resolution}

(2) The requisition shall set out the by-law or resolution, as the case may be, that is required to be passed at the meeting and shall be signed by the requisitionists and deposited at the head office of the co-operative, and may consist of several documents in like form, each signed by one or more requisitionists. ^{Form of requisition}

Meeting of
directors

(3) Upon deposit of the requisition, the directors shall forthwith call a meeting of the directors for the purpose of passing the by-law or resolution, as the case may be, set out in the requisition.

Meeting of
members

(4) Where the directors do not, within twenty-one days from the date of the deposit of the requisition,

- (a) call and hold such a meeting and pass such a by-law or resolution; and
- (b) call a general meeting of the members for the purpose of confirming the by-law or resolution if the resolution requires confirmation at a general meeting of the members before it is effective,

any of the requisitionists may call a general meeting of the members for the purpose of passing such a by-law or resolution, and the meeting shall be held within sixty days from the date of the deposit of the requisition.

Notice

(5) A meeting of the members called under subsection (4) shall be called as nearly as possible in the same manner as meetings of members are called under the by-laws, but, if the by-laws provide for more than twenty-one days notice of meetings, twenty-one days notice is sufficient for the calling of the meeting.

Validity of
by-law or
resolution

(6) Where a by-law or resolution is passed at a meeting of the members called under subsection (4), either as set out in the requisition or as varied at the meeting, it is as valid and effective as if it had been passed at a meeting of the directors duly called, constituted and held for that purpose and confirmed at a meeting of the members duly called, constituted and held for that purpose, and if the resolution or by-law is passed by at least two-thirds of the votes cast at a meeting of the members called under subsection (4), it shall be conclusively deemed to be a special resolution or a by-law, as the case may be, for the purposes of this Act.

Repayment
of expenses

(7) The co-operative shall,

- (a) reimburse the requisitionists for any reasonable expenses incurred by them by reason of the failure of the directors to act in accordance with subsections (3) and (4); and
- (b) retain out of any moneys due or to become due, by way of fees or other remuneration for their services, to such

of the directors as were in default, an amount equal to the amount the requisitionists were reimbursed,

unless, at the meeting called under subsection (4), the members, by a majority of the votes cast, reject the reimbursement of the requisitionists.

(8) Where a by-law or resolution in respect of which a meeting of directors is requisitioned under this section is not passed or confirmed at a meeting of the members, no requisition for a meeting of directors in respect of a similar by-law or resolution shall be made for a period of at least two years. 1973, c. 101, s. 70.

71.—(1) On the requisition in writing of 5 per cent of the members of the co-operative, the directors shall,

New
requisition
on same
subject

Circulation
of members'
resolutions,
etc.

(a) give to the members entitled to notice of the next meeting of members notice of any resolution that may properly be moved and is intended to be moved at that meeting; or

(b) circulate to the members entitled to vote at the next meeting of members a statement of not more than 1,000 words with respect to the matter referred to in any proposed resolution or with respect to the business to be dealt with at that meeting.

(2) The notice or statement or both, as the case may be, shall be given or circulated by sending a copy thereof to each member entitled thereto in the same manner and at the same time as that prescribed by this Act, the articles or the by-laws, for the sending of notice of meetings of members.

Notice

(3) Where it is not practicable to send the notice or statement or both at the same time as the notice of the meeting is sent, the notice or statement or both shall be sent as soon as practicable thereafter.

Idem

(4) The directors are not bound under this section to give notice of any resolution or to circulate any statement unless,

Deposit of
requisition,
etc.

(a) the requisition, signed by the requisitionists, is deposited at the head office of the co-operative,

(i) in the case of a requisition requiring notice of a resolution to be given, not less than twenty-one days before the meeting,

(ii) in the case of a requisition requiring a statement to be circulated, not less than fourteen days before the meeting; and

- (b) there is deposited with the requisition a sum reasonably sufficient to meet the expenses of the co-operative in giving effect thereto.

Where directors not bound to circulate statement

(5) The directors are not bound under this section to circulate any statement if, on the application of the co-operative or any other person who claims to be aggrieved, the court is satisfied that the rights conferred by this section are being abused to secure needless publicity for defamatory matter, and on any such application the court may order the costs of the co-operative to be paid in whole or in part by the requisitionists notwithstanding that they are not parties to the application.

Where no liability

(6) No co-operative or a director, officer or employee thereof or person acting on its behalf, except a requisitionist, is liable in damages or otherwise by reason only of the giving of a notice or the circulation of a statement, or both, in compliance with this section.

Duty to deal with requisitioned matter

(7) Notwithstanding anything in the by-laws of the co-operative, where the requisitionists have complied with this section, the resolution, if any, mentioned in the requisition shall be dealt with at the meeting to which the requisition relates.

Repayment of expenses

(8) The co-operative shall pay to the requisitionists the sum deposited under clause (4) (b) unless at the meeting to which the requisition relates the members by a majority of the votes cast reject the repayment to the requisitionists. 1973, c. 101, s. 71.

Liabilities of Members

Liability on decrease of issued capital

72.—(1) Where the issued loan or share capital of a co-operative is decreased by an amendment to the articles, each person who was a member on the effective date of the amendment is individually liable to the creditors of the co-operative for the debts due on that date to an amount not exceeding the amount of the repayment to him.

Limitation of liability

(2) A person is not liable under subsection (1) unless,

- (a) the co-operative has been sued for the debt within six months after the effective date of the amendment and execution has been returned unsatisfied in whole or in part; and
- (b) he is sued for the debt in a court of competent jurisdiction within two years from the effective date of the amendment.

(3) After execution has been so returned, the amount due ^{Idem} on the execution, not exceeding the amount of the repayment to the person, is the amount recoverable against such person.

(4) Where it is made to appear that there are numerous ^{Class} members who may be liable under this section, the court ^{actions} of competent jurisdiction may permit an action to be brought against one or more of them as representatives of the class and, if the plaintiff establishes his claim as creditor, may make an order of reference and add as parties in the referee's office all such members as may be found, and the referee shall determine the amount that each should contribute towards the plaintiff's claim and may direct payment of the sum so determined.

(5) No person holding shares or loans in the capacity of a ^{Member in} personal representative and registered on the records of the ^{fiduciary} co-operative as a member and therein described as representing ^{capacity} in such capacity a named estate, person or trust is personally liable under this section, but the estate, person or trust is subject to all liabilities imposed by this section. 1973, c. 101, s. 72.

73. A member of a co-operative as such is not answerable ^{Member's} or responsible for any act, default, obligation or liability of the ^{liability} co-operative or for any engagement, claim, payment, loss, ^{limited} injury, transaction, matter or thing relating to or connected with the co-operative. 1973, c. 101, s. 73.

Meetings of Members

74.—(1) Subject to subsections (2) and (3), the meetings of the ^{Place of} members shall be held at the place where the head office of the ^{meetings} co-operative is located.

(2) Where the by-laws of the co-operative so provide, the ^{Exception} meetings of the members may be held at any place within Ontario.

(3) Where the articles of the co-operative so provide, the ^{Idem} meetings of the members may be held at one or more places outside Ontario specified therein. 1973, c. 101, s. 74.

75.—(1) Subject to subsection (2) and in the absence of other ^{Members'} provisions in that behalf in the articles or by-laws of the co-opera- ^{meetings} tive,

(a) notice of the time and place for holding a meeting of the members shall be given to each person who is entitled to notice of meetings and who on the record date for notice appears on the records of the co-

operative as a member by sending the notice by pre-paid mail to his latest address as shown on the records of the co-operative ten days or more before the date of the meeting but in no case more than fifty days before the date of the meeting;

- (b) all questions proposed for the consideration of the members at a meeting of members shall be determined by the majority of the votes cast, and the chairman presiding at the meeting has a second or casting vote in case of an equality of votes;
- (c) the chairman presiding at a meeting of members may, with the consent of the meeting and subject to such conditions as the meeting decides, adjourn the meeting from time to time and from place to place;
- (d) the president or, in his absence, a vice-president who is a director shall preside as chairman at a meeting of members, but, if there is no president or such a vice-president or if at a meeting neither of them is present within fifteen minutes after the time appointed for the holding of the meeting, the members present shall choose a person from their number to be the chairman;
- (e) unless a poll is demanded, an entry in the minutes of a meeting of members to the effect that the chairman declared a motion to be carried is admissible in evidence as *prima facie* proof of the fact without proof of the number or proportion of votes recorded in favour of or against the motion.

Notice

(2) The articles or by-laws of the co-operative shall not provide for fewer than ten days notice for meetings of members and in no case shall notice be given fifty days before the date of the meeting and the articles or by-laws shall not provide that notice may be given otherwise than individually.

Poll

(3) If a poll is demanded, it shall be taken in such manner as the by-laws prescribe, and, if the by-laws make no provision therefor, then as the chairman directs. 1973, c. 101, s. 75.

Voting

76.—(1) A member of a co-operative has only one vote.

Proxies
prohibited

(2) Subject to subsection (3), no member of a co-operative shall vote by proxy.

Voting by
corporation

(3) A corporate member may appoint under its corporate seal one of its directors or officers to attend and vote on its

behalf at meetings of members and such director or officer has only one vote. 1973, c. 101, s. 76.

77. A co-operative shall hold an annual meeting of its members not later than eighteen months after its incorporation and subsequently not more than fifteen months after the holding of the last preceding annual meeting and at such meeting any member shall have an opportunity to raise any matter relevant to the affairs and business of the co-operative. 1973, c. 101, s. 77. Annual meetings

78. The directors may at any time call a general meeting of the members for the transaction of any business, the general nature of which is specified in the notice calling the meeting. 1973, c. 101, s. 78. General meetings

79.—(1) Five per cent of the members of a co-operative may requisition the directors to call a general meeting of the members for any purpose that is connected with the affairs of the co-operative and that is not inconsistent with this Act. Requisition for members' meeting

(2) The requisition shall state the general nature of the business to be presented at the meeting and shall be signed by the requisitionists and deposited at the head office of the co-operative and may consist of several documents in like form, each signed by one or more requisitionists. Requisition

(3) Upon deposit of the requisition, the directors shall forthwith call a general meeting of the members for the transaction of the business stated in the requisition. Duty of directors to call meeting

(4) If the directors do not within thirty days from the date of the deposit of the requisition call and hold the meeting, any of the requisitionists may call the meeting, which shall be held within sixty days from the date of the deposit of the requisition. When requisitionists may call meeting

(5) A meeting called under this section shall be called as nearly as possible in the same manner as meetings of members are called under the by-laws, but, if the by-laws provide for more than twenty-one days notice of meetings, twenty-one days notice is sufficient for the calling of the meeting. Calling of meeting

(6) The co-operative shall, Repayment of expenses

(a) reimburse the requisitionists for any reasonable expenses incurred by them by reason of the action taken by them under subsection (4); and

(b) retain out of any moneys due or to become due, by way of fees or other remuneration for their services,

to such of the directors as were in default, an amount equal to the amount the requisitionists were reimbursed,

unless, at the meeting, the members by a majority of the votes cast reject the reimbursement of the requisitionists 1973, c. 101, s. 79.

Requisition
by court
order

80. Notwithstanding section 79, upon application by a member of a co-operative, the court, if satisfied that the application is made in good faith and that it is *prima facie* in the interests of the co-operative or its members that the meeting be held on requisition, may make an order, upon such terms as to security for the costs of holding the meeting or otherwise as to the court seem fit, requiring the directors to call a general meeting of the members for any purpose that is connected with the affairs of the co-operative and that is not inconsistent with this Act. 1973, c. 101, s. 80.

Court may
direct
method of
holding
meetings

81. If for any reason it is impracticable to call a meeting of members of a co-operative in any manner in which meetings of members may be called or to conduct the meeting in the manner prescribed by this Act, the articles or by-laws, the court may, on the application of a director or a member who would be entitled to vote at the meeting, order a meeting to be called, held and conducted in such manner as the court thinks fit, and any meeting called, held and conducted in accordance with the order shall for all purposes be deemed to be a meeting of members of the co-operative duly called, held and conducted. 1973, c. 101, s. 81.

Record
dates

82. The by-laws may provide for the fixing in advance of a date as the record date,

- (a) for the determination of the members entitled to notice of meetings of the members, which record date for notice shall not be more than fifty days before the date of the meeting and not fewer than the minimum number of days for notice of the meeting and where no such record date for notice is fixed, the record date for notice shall be at the close of business on the day next preceding the day on which notice is given or sent; and
- (b) for the determination of the members entitled to vote at meetings of the members which record date for voting shall not be more than two days, excluding Saturdays and holidays, before the date of the meeting and where no such record date for voting is fixed, the record date for voting shall be the time of the taking of the vote. 1973, c. 101, s. 82.

83. Where a person holds shares or a member loan as a personal representative of a member, the personal representative is entitled to vote at all meetings of members. 1978, c. 86, s. 17. Personal representative may vote

84. Where two or more persons hold the same share or shares jointly, any one of such persons present at a meeting of members has the right in the absence of the other or others to vote, but, if more than one of such persons are present and vote, they shall vote together as one on the share or shares jointly held by them. 1973, c. 101, s. 84. Joint shareholders

DIRECTORS AND OFFICERS

Directors

85.—(1) Every co-operative shall have a board of directors however designated. Board of directors

(2) The board of directors shall consist of a fixed number of directors, not fewer than five. Composition

(3) A majority of directors on the board of directors of every co-operative shall be resident Canadians. 1973, c. 101, s. 85. Idem

86.—(1) Each of the persons named as first directors in the articles of a co-operative is a director of the co-operative until replaced by a person duly elected or appointed in his stead. First directors

(2) The first directors of a co-operative have all the powers and duties and are subject to all the liabilities of directors. 1973, c. 101, s. 86. Idem

87. No person shall be a director of a co-operative unless he is a member thereof or a director, officer, shareholder or member of a corporate member thereof, and, where a director or a corporation of which he is an officer, director, shareholder or member ceases to be a member, he thereupon ceases to be a director. 1973, c. 101, s. 87. Directors to be members

88.—(1) A co-operative may by by-law increase or, subject to subsection 85 (2), decrease the number of its directors as set out in its articles. Change in number of directors

Filing of
by-law

(2) A co-operative shall file with the Minister a certified copy of the by-law within ten days after the by-law has been confirmed by the members.

Validity

(3) Failure to comply with subsection (2) does not affect the validity of the by-law. 1973, c. 101, s. 88.

Age of
directors

89.—(1) No person under eighteen years of age shall be a director of a co-operative.

Qualifications

(2) No undischarged bankrupt or mentally incompetent person shall be a director, and, if a director becomes a bankrupt or a mentally incompetent person, he thereupon ceases to be a director.

Consent

(3) A person who is elected or appointed a director is not a director unless,

(a) he was present at the meeting when he was elected or appointed and did not refuse at the meeting to act as director;

(b) where he was not present at the meeting when he was elected or appointed, he consented to act as director in writing before his election or appointment or within ten days thereafter.

Idem

(4) For the purposes of subsection (3), a person who is elected or appointed as director and refuses under clause (3) (a) or fails to consent under clause (3) (b) shall be deemed not to have been elected or appointed as a director. 1973, c. 101, s. 89.

Election of
directors

90.—(1) The directors shall be elected by the members in general meeting, and the election shall be by ballot in the manner prescribed by section 91.

Idem

(2) The election of directors shall take place yearly or at such other interval not exceeding five years as is provided by the articles and all the directors then in office shall retire, but are eligible for re-election.

Continuance
in office

(3) If an election of directors is not held within the prescribed period, the directors continue in office until their successors are elected.

(4) The articles or by-laws may provide for the election and retirement of directors in rotation, but in that case no director shall be elected for a term of more than five years and at least two directors shall retire from office in each year. **Rotation**

(5) It shall not be necessary for all directors to hold office for the same term. 1973, c. 101, s. 90. **Idem**

91. Every member entitled to vote at an election of directors, if he votes, shall cast thereat a number of votes equal to the number of directors to be elected, and the member shall distribute the votes among the candidates in such manner as he sees fit, but no candidate shall receive more than one vote from each member. 1973, c. 101, s. 91. **Voting for directors**

92.—(1) Subject to subsection (2), where a vacancy occurs in the board, and a quorum of directors remains, the directors remaining in office may appoint a qualified person to fill the vacancy for the remainder of the term, but the articles may provide that such vacancy may only be filled by election at a general meeting of the members duly called for that purpose. **Vacancies**

(2) Where the number of directors is increased, the vacancies resulting from such increase shall only be filled by election at a general meeting of the members duly called for that purpose. **Idem**

(3) When there is not a quorum of directors in office, the director or directors then in office shall forthwith call a general meeting of the members to fill the vacancies, and, in default or if there are no directors then in office, the meeting may be called by any member. 1973, c. 101, s. 92. **Idem, where no quorum**

93. Unless the articles or by-laws otherwise provide, a majority of the board of directors constitutes a quorum, but in no case shall a quorum be less than two-fifths of the board of directors. 1973, c. 101, s. 93. **Quorum of directors**

94.—(1) Subject to subsection (2), the meetings of the board of directors and the executive committee shall be held at the place where the head office of the co-operative is located. **Place of meetings**

(2) Where the by-laws of the co-operative so provide, the meetings of the board of directors and of the executive committee may be held at any place within or outside Ontario, but in any financial year of the co-operative a majority of the meetings of the board of directors and a majority of the meetings of the executive committee shall be held at a place within Canada. **Exception**

(3) Subject to the by-laws of the co-operative, where all the directors have consented thereto, any director may par- **Meetings by telephone**

ticipate in a meeting of the board of directors or of the executive committee by means of conference, telephone or other communications equipment by means of which all persons participating in the meeting can hear each other, and a director participating in a meeting pursuant to this subsection shall be deemed for the purposes of this Act to be present in person at that meeting.

Place of
meetings by
telephone

(4) If a majority of the directors participating in a meeting held pursuant to subsection (3) are then in Canada, the meeting shall be deemed to have been held in Canada. 1973, c. 101, s. 94.

Calling
meetings of
directors

95.—(1) In addition to any other provision in the articles or by-laws of a co-operative for calling meetings of directors, a quorum of the directors may, at any time, call a meeting of the directors for the transaction of any business the general nature of which is specified in the notice calling the meeting.

Notice

(2) In the absence of any other provision in that behalf in the by-laws of the co-operative, notice of the time and place for the holding of the meeting called under subsection (1) shall be given to every director of the co-operative by sending the notice by prepaid mail ten days or more before the date of the meeting to his latest address as shown on the records of the co-operative. 1973, c. 101, s. 95.

Duties

96.—(1) The board of directors shall manage or supervise the management of the affairs and business of the co-operative.

Conduct of
business

(2) Subject to section 97, no business of a co-operative shall be transacted by its board of directors except at a meeting of directors at which a quorum of the board is present and at which a majority of the directors present are resident Canadians.

Idem

(3) Where there is a vacancy or vacancies in the board of directors, the remaining directors may exercise all the powers of the board so long as a quorum of the board remains in office. 1973, c. 101, s. 96.

Executive
committee

97.—(1) Where the number of directors of a co-operative is more than six, and if authorized by a by-law, the directors may elect from among their number an executive committee consisting of not fewer than three of whom a majority shall be resident Canadians and may delegate to the executive committee any powers of the board of directors, subject to the restrictions, if any, contained in the by-law or imposed from time to time by the directors.

Quorum

(2) An executive committee may fix its quorum, which shall be not less than a majority of its members.

(3) No business shall be transacted by an executive committee except at a meeting of its members at which a quorum of the executive committee is present and at which a majority of the members present are resident Canadians. 1973, c. 101, s. 97.

Conduct of
business

98.—(1) Every director of a co-operative who has, directly or indirectly, any interest in any contract or transaction to which the co-operative or a subsidiary thereof is or is to be a party, other than a contract or transaction in which his interest is limited solely to his remuneration as a director, officer or employee, shall declare his interest in such contract or transaction at a meeting of the directors of the co-operative and shall at that time disclose the nature and extent of such interest including, as to any contract or transaction involving the purchase or sale of property by or to the co-operative or a subsidiary thereof, the cost of the property to the purchaser and the cost thereof to the seller, if acquired by the seller within five years before the date of the contract or transaction, to the extent to which such interest or information is within his knowledge or control, and shall not vote and shall not in respect of such contract or transaction be counted in the quorum.

Disclosure by
directors of
interests in
contracts

(2) Subsection (1) does not require the disclosure of any interest in any contract or transaction unless,

Interest
to be
material

(a) the interest and the contract or transaction are both material; or

(b) the subject of the contract or transaction is of a type not available to all members of the co-operative.

(3) The declaration required by this section shall be made at the meeting of the directors at which the proposed contract or transaction is first considered, or if the director is not at the date of the meeting interested in the proposed contract or transaction, at the next meeting of the directors held after he becomes so interested, or if the director becomes interested in a contract or transaction after it is entered into, at the first meeting of the directors held after he becomes so interested, or if a contract or a proposed contract or transaction is one that in the ordinary course of the co-operative's business, would not require approval by the directors or shareholders, at the first meeting of the directors held after the director becomes aware of it.

When
declaration
of interest
to be made

(4) If a director has made a declaration and disclosure of his interest in a contract or transaction in compliance with this section and has not voted in respect of the contract or transaction at the meeting of the directors of the co-operative, the director, if he was acting honestly and in good

Effect of
declaration

faith at the time the contract or transaction was entered into, is not by reason only of his holding the office of director accountable to the co-operative or to its members for any profit or gain realized from the contract or transaction, and the contract or transaction, if it was in the best interests of the co-operative at the time the contract or transaction was entered into, is not voidable by reason only of the director's interest therein.

Confirmation
by members

(5) Notwithstanding anything in this section, a director, if he was acting honestly and in good faith, is not accountable to the co-operative or to its members for any profit or gain realized from any such contract or transaction by reason only of his holding the office of director, and the contract or transaction, if it was in the best interests of the co-operative at the time it was entered into, is not by reason only of the director's interest therein voidable,

(a) if the contract or transaction is confirmed or approved by at least two-thirds of the votes cast at a general meeting of the members duly called for that purpose; and

(b) if the nature and extent of the director's interest in the contract or transaction are declared and disclosed in reasonable detail in the notice calling the meeting.

General
notice of
interest

(6) For the purposes of this section, a general notice to the directors by a director declaring that he is a director or officer of or has a material interest in a person that is a party to a contract or proposed contract with the co-operative is a sufficient declaration of interest in relation to any contract so made. 1973, c. 101, s. 98.

Liability of
directors re
purchase of
shares

99.—(1) Where a co-operative acquires any of its shares or repays any of its loans in contravention of this Act or the articles, the directors who voted in favour of or consented to the resolution authorizing the acquisition or repayment are jointly and severally liable to the co-operative to the extent of the amount paid out.

Application
to court

(2) Where a co-operative acquires any of its shares or repays any of its loans in contravention of this Act or the articles,

(a) any member of the co-operative; or

(b) where the acquisition or repayment is in contravention of subsection 32 (2), subsection 67 (1) or section 69, any

creditor of the co-operative who was a creditor at the time of the acquisition or repayment,

may apply to the court within two years of the acquisition or repayment and the court may, if it considers it to be just and equitable under the circumstances, make an order making any member whose shares were acquired liable to the co-operative jointly and severally with the directors, to the extent of the amount paid to him. 1973, c. 101, s. 99.

100. Where any dividend is declared and paid in contra-
vention of section 58,

Liability
of directors
re dividends

- (a) the directors who voted in favour of or consented to the resolution authorizing the declaration of the dividend are jointly and severally liable to the co-operative to the extent of the amount of the dividend so declared and paid or such part thereof as renders the co-operative insolvent or diminishes its capital; and
- (b) any member of the co-operative or any creditor of the co-operative who was a creditor at the time of the declaration of the dividend may apply to the court within two years of the declaration, and the court may, if it considers it to be just and equitable under the circumstances, make an order making any member to whom the dividend is paid jointly and severally liable with the directors to the extent of the amount of the dividend paid to him. 1973, c. 101, s. 100.

101.—(1) A director who was present at a meeting of the
board of directors or an executive committee thereof when,

Consent of
director at
meeting

- (a) the redemption or purchase of shares of the co-operative is authorized;
 - (b) the declaration and payment of a dividend is authorized; or
 - (c) the repayment of loans to members is authorized,
- shall be deemed to have consented thereto unless,
- (d) his dissent is entered in the minutes of the meeting;
 - (e) he files his written dissent with the person acting as secretary of the meeting before its adjournment; or

(f) he delivers or sends his dissent by registered mail to the co-operative immediately after the adjournment of the meeting,

and within seven days after complying with clause (d), (e) or (f) he sends a copy of his dissent by registered mail to the Minister.

Idem

(2) A director who voted in favour of a matter referred to in subsection (1) is not entitled to dissent under subsection (1).

Consent of director not at meeting

(3) A director who was not present at a meeting of the board of directors or any executive committee thereof when,

(a) the redemption or purchase of shares of the co-operative is authorized;

(b) the declaration and payment of a dividend is authorized; or

(c) the repayment of loans to members is authorized,

shall be deemed to have consented thereto unless,

(d) he delivers or sends to the co-operative by registered mail his dissent; or

(e) he causes his dissent to be filed with the minutes of the meeting,

within seven days after he becomes aware of the authorization referred to in clause (a), (b) or (c) and unless, within seven days after complying with clause (d) or (e), he sends a copy of his dissent by registered mail to the Minister. 1973, c. 101, s. 101.

Exception to liability

102.—(1) A director is not liable under section 99 or 100 if, in the circumstances, he discharged his duty to the co-operative in accordance with section 108.

Liability not excluded

(2) The liability imposed by this Act upon a director is in addition to any other liability that is by law imposed upon him. 1973, c. 101, s. 102.

Liability of directors for wages

R.S.O. 1980, cc. 257, 137

103.—(1) The directors of a co-operative are jointly and severally liable to the employees of the co-operative to whom the *Master and Servant Act* applies for all debts that become due while they are directors for services performed for the co-operative, not exceeding six months wages, and for the vacation pay accrued for not more than twelve months under the *Employment Standards Act* and the regulations thereunder or under any collective agreement made by the co-operative.

(2) A director is liable under subsection (1),

Limitation of
liability

(a) only if,

(i) the co-operative has been sued for the debt within six months after it has become due and execution against the co-operative has been returned unsatisfied in whole or in part, or

(ii) the co-operative has within that period gone into liquidation or has been ordered to be wound up or has made an authorized assignment under the *Bankruptcy Act* (Canada), or a receiving order under the *Bankruptcy Act* (Canada) has been made against it and, in any such case, the claim for the debt has been proved; and

R.S.C. 1970,
c. B-3

(b) he is sued for the debt while he is a director or within two years after he ceases to be a director.

(3) After execution has been so returned against the co-operative, the amount recoverable against the director is the amount remaining unsatisfied on the execution.

Idem

(4) If the claim for the debt has been proved in liquidation or winding-up proceedings or under the *Bankruptcy Act* (Canada), a director who pays the debt is entitled to any preference that the creditor paid would have been entitled to or, if a judgment has been recovered for the debt, the director is entitled to an assignment of the judgment. 1973, c. 101, s. 103.

Rights of
director
who pays
the debt

104. The members may, by resolution passed by a majority of the votes cast at a general meeting duly called for that purpose, remove any director before the expiration of his term of office and may, by a majority of the votes cast at the meeting, elect any qualified person in his stead for the remainder of his term. 1978, c. 86, s. 18.

Removal of
directors

Officers

105.—(1) A co-operative shall have a president and a secretary and such other officers as are provided for by by-law or by resolution of the directors.

Officers

(2) In the absence of other provisions in that behalf in the articles or by-laws, the directors,

Election and
appointment

(a) shall elect the president from among themselves;

(b) shall appoint or elect the secretary; and

(c) may appoint or elect one or more vice-presidents or other officers. 1973, c. 101, s. 105.

Chairman
of the board

106. A co-operative may by by-law,

(a) provide for the election or appointment by the directors from among themselves of a chairman of the board;

(b) define the duties of the chairman;

(c) assign to the chairman all or any of the duties of the president or of any other officer of the co-operative,

and, if the by-law assigns to the chairman any of the duties of the president, it shall also fix and prescribe the duties of the president. 1973, c. 101, s. 106.

Qualifica-
tions of
chairman
and president

107. Unless the articles or by-laws otherwise provide, no person shall be the president of a co-operative unless he is a director of the co-operative, but no other officer except the chairman of the board need be a director. 1973, c. 101, s. 107.

General

Standard of
care of
directors and
officers

108. Every director and officer of a co-operative shall exercise the powers and discharge the duties of his office honestly, in good faith and in the best interests of the co-operative, and in connection therewith shall exercise the degree of care, diligence and skill that a reasonably prudent person would exercise in comparable circumstances. 1973, c. 101, s. 108.

Validity of
acts of
directors and
officers

109. An act done by a director or by an officer is not invalid by reason only of any defect that is thereafter discovered in his appointment, election or qualification. 1973, c. 101, s. 109.

Indemnifica-
tion of
directors and
officers

110.—(1) Subject to subsection (2), the by-laws of a co-operative may provide that every director and officer of the co-operative and his heirs, executors, administrators and other legal personal representatives may from time to time be indemnified and saved harmless by the co-operative from and against,

(a) any liability and all costs, charges and expenses that he sustains or incurs in respect of any action, suit or proceeding that is proposed or commenced against him for or in respect of anything done or permitted by him in respect of the execution of the duties of his office; and

- (b) all other costs, charges and expenses that he sustains or incurs in respect of the affairs of the co-operative.

(2) No director or officer of a co-operative shall be indemnified by the co-operative in respect of any liability, costs, charges or expenses that he sustains or incurs in or about any action, suit or other proceeding as a result of which he is adjudged to be in breach of any duty or responsibility imposed upon him under this Act or under any other statute unless, in an action brought against him in his capacity as director or officer, he has achieved complete or substantial success as a defendant.

(3) A co-operative may purchase and maintain insurance for the benefit of a director or officer thereof, except insurance against a liability, cost, charge or expense of the director or officer incurred as a result of a contravention of section 108. 1973, c. 101, s. 110.

INSIDERS

111.—(1) Every insider of a co-operative or associate or affiliate of such insider who, in connection with a transaction relating to the securities of the co-operative, makes use of any specific confidential information for his own benefit or advantage that, if generally known, might reasonably be expected to affect materially the value of such securities, is liable to compensate any person for any direct loss suffered by such person as a result of the transaction, unless the information was known or ought reasonably to have been known to such person at the time of the transaction, and is also accountable to the co-operative for any direct benefit or advantage received or receivable by such insider, associate or affiliate, as the case may be, as a result of the transaction.

(2) An action to enforce any right created by subsection (1) may be commenced only within two years after the date of completion of the transaction that gave rise to the cause of action.

(3) In this section,

(a) “associate”, where used to indicate a relationship with any person, means,

- (i) any corporation of which such person beneficially owns, directly or indirectly, equity shares carrying more than 10 per cent of the voting rights attached to all equity shares of the corporation for the time being outstanding,

- (ii) any partner of that person acting by or for the partnership of which they are both partners,
 - (iii) any trust or estate in which such person has a substantial beneficial interest or as to which such person serves as trustee or in a similar capacity,
 - (iv) any spouse, son or daughter of that person, or
 - (v) any relative of such person or of his spouse, other than a relative referred to in subclause (iv), who has the same home as such person;
- (b) "insider" or "insider of a co-operative" means any director or senior officer of a co-operative.

Idem

(4) For the purposes of this section, one corporation shall be deemed to be affiliated with another corporation if, but only if, one of them is the subsidiary of the other. 1973, c. 101, s. 111.

Order to
commence
action

112.—(1) Upon application by any person who was at the time of a transaction referred to in subsection 111 (1) or is at the time of the application an owner of securities of the co-operative, the court may, if satisfied that,

- (a) such person has reasonable grounds for believing that the co-operative has a cause of action under section 111; and
- (b) either,
 - (i) the co-operative has refused or failed to commence an action under section 111 within sixty days after receipt of a written request from such person so to do, or
 - (ii) the co-operative has failed to prosecute diligently an action commenced by it under section 111,

make an order, upon such terms as to security for costs and otherwise as to the court seems fit, requiring the Minister to commence or continue an action in the name of and on behalf of the co-operative to enforce the liability created by section 111.

(2) The applicant under subsection (1) shall give to the co-operative and the Minister notice of his application, and the co-operative and the Minister have the right to appear and be heard thereon. Notice

(3) Every order made under subsection (1) shall provide that the co-operative shall co-operate fully with the Minister in the institution and prosecution of the action and shall make available to the Minister all records, documents and other material or information known to the co-operative or reasonably ascertainable by the co-operative relevant to the action. Order to co-operate
1973, c. 101, s. 112.

RECORDS

113.—(1) Where this Act requires a record to be kept by a co-operative, it may be kept in a bound or looseleaf book, or by means of a mechanical, electronic or other device. Records

(2) Where a record is not kept in a bound book, the co-operative shall, Where not in bound book

- (a) take adequate precautions, appropriate to the means used, for guarding against the risk of falsifying the information recorded; and
- (b) provide means for making the information available in an accurate and intelligible form within a reasonable time to any person lawfully entitled to examine the record.

(3) The bound or looseleaf book or, where the record is not kept in a bound or looseleaf book, the information in the form in which it is made available under clause (2) (b) is admissible in evidence as *prima facie* proof, before and after dissolution of the co-operative, of all facts stated therein. Admissibility of records in evidence

(4) No person shall remove, withhold or destroy information required by this Act or the regulations to be recorded, or, False information

- (a) record or assist in recording any information in a record; or
- (b) make information purporting to be accurate available in a form referred to in clause (2) (b),

knowing it to be untrue. 1973, c. 101, s. 113.

114. A co-operative shall cause to be kept the following records: Records

1. A copy of the articles of the co-operative.

2. All by-laws and resolutions, including special resolutions, of the co-operative.
3. A register of members and security holders in which is set out the names alphabetically arranged or alphabetically indexed in appropriate categories of,
 - i. in a co-operative with share capital, all persons who are or have been within ten years registered as holders of shares in the co-operative and the address including the street and number, if any, of every such person while a holder, in which are set out also the number and class of shares held by such holder,
 - ii. in a co-operative without share capital, all persons who are or have been within ten years registered as members of the co-operative and the address including the street and number, if any, of every such person while a member,
 - iii. in a co-operative with or without share capital, all persons who are or who have been holders of debt obligations other than debt obligations in bearer form of the co-operative and the address including the street and number, if any, of every such person while a holder in which are set out also the class or series and principal amount of the debt obligations held by such holder.
4. A register of directors in which are set out the names and residence addresses while directors, including the street and number, if any, of all persons who are or have been directors of the co-operative with the several dates on which they have become or ceased to be a director.
5. Proper accounting records in which are set out all financial and other transactions of the co-operative including, without limiting the generality of the foregoing, records of,
 - i. all sums of money received and disbursed by the co-operative and the matters with respect to which receipt and disbursement took place,
 - ii. all sales and purchases of the co-operative,
 - iii. the assets and liabilities of the co-operative, and

iv. all other transactions affecting the financial position of the co-operative.

6. The minutes of all proceedings at meetings of members, directors and any executive committee. 1973, c. 101, s. 114.

115. Every co-operative shall cause to be kept a register of transfers in which all transfers of securities issued by the co-operative in registered form and the date and other particulars of each transfer shall be set out. 1973, c. 101, s. 115. Register of transfers

116. A co-operative may appoint a registrar and a transfer agent to keep the register of security holders and the register of transfers. 1973, c. 101, s. 116. Transfer agent

117.—(1) The register of security holders and the register of transfers shall be kept at the head office of the co-operative or at such other office or place in Ontario as is appointed by resolution of the directors. Where registers to be kept

(2) Registration of the transfer of a security of the co-operative in the register of transfers is a complete and valid registration for all purposes. Valid registration

(3) A co-operative, registrar or transfer agent is not liable to produce a security certificate or any document that is evidence of the issue or transfer of the security certificate after six years, Destruction of spent documents

(a) in the case of a share certificate, from the date of its cancellation; or

(b) in the case of a certificate representing a debt obligation, from the date of retirement of the whole debt obligation of which the certificate represents a part. 1973, c. 101, s. 117.

118.—(1) The records mentioned in sections 114 and 115 shall, during the normal business hours of the co-operative, be open to examination by any director and shall, except as provided in section 117 and in subsections (2) and (3) of this section, be kept at the head office of the co-operative. Records open to examination by directors

(2) A co-operative may keep at any place where it conducts its affairs such parts of the accounting records as relate to the operations, business and assets and liabilities of the co-operative carried on, supervised or accounted for at such place, but there shall be kept at the head office of the co-operative or such other place as is authorized under subsection (3) such records as will enable the directors to ascertain quarterly with reasonable accuracy the financial position of the co-operative. Records of account at branch

Order for
removal of
records

(3) Where a co-operative,

- (a) shows, to the satisfaction of the Minister, the necessity of keeping all or any of the records mentioned in subsection (1) at a place other than the head office of the co-operative; and
- (b) gives to the Minister adequate assurance, by surety bond or otherwise, that such records will be open for examination,
 - (i) at the head office or some other place in Ontario designated by the Minister, and
 - (ii) by any person who is entitled to examine them and who has applied to the Minister for such an examination,

the Minister may, by order and upon such terms as he thinks fit, permit the co-operative to keep such of them at such place or places, other than the head office, as he thinks fit and the Minister may by order and upon such terms as he sees fit rescind any such order. 1973, c. 101, s. 118.

Examination
of records
by members
and creditors

119.—(1) Subject to section 120, the records of a co-operative mentioned in section 114 or 115, other than accounting records, resolutions of directors and the minutes of proceedings at meetings of directors and any executive committee, shall, during the normal business hours of the co-operative and at the place or places where they are kept, be open to examination by the members and creditors or their agents or personal representatives, and any of them may make extracts therefrom.

Idem

(2) No person shall refuse to permit a person entitled thereto to inspect such records or to make extracts therefrom. 1973, c. 101, s. 119.

Lists of
members
and security
holders

120.—(1) Any member or creditor, upon filing with the co-operative or its agent the affidavit referred to in subsection (2) may,

- (a) make or cause to be made; or
- (b) require a co-operative or its transfer agent to make, upon payment of a reasonable charge therefor,

a list setting out the names alphabetically arranged of all or any members or security holders or both of the co-operative and the addresses of each such person as shown on the records of the co-operative made up to a date not more than ten days before the date of filing the affidavit.

(2) The affidavit referred to in subsection (1) shall be made by the applicant and shall be in the following form: ^{Form of affidavits}

Form of Affidavit

Province of Ontario }
County of }

In the matter of
(Insert name of co-operative)

I, of the of
in the of
make oath and say:

(Where the applicant is a corporation, indicate office and authority of deponent.)

1. I am a member or a creditor of the above-named co-operative.
2. I require the list (or require to make a list) of the members (security holders) of the above-named co-operative.
3. I require the list of members (security holders) only for purposes connected with the above-named co-operative.
4. The list of members (security holders) and the information contained therein will be used only for purposes connected with the above-named co-operative.

Sworn, etc.

(3) Where the applicant is a corporation, the affidavit shall be made by the president or other officer authorized by resolution of the board of directors of the corporation. ^{Idem, where applicant a corporation}

(4) No person shall use a list of all or any of the members of a co-operative obtained under this section, ^{Use of list}

- (a) for the purpose of delivering or sending to all or any of the members advertising or other printed matter relating to securities other than the securities of the co-operative; or
- (b) for any purpose not connected with the co-operative.

(5) Every co-operative or transfer agent shall furnish a list in accordance with subsection (1) when so required. ^{Duty to furnish}

Purposes
of list

(6) Purposes connected with the co-operative include any effort to influence the voting of members or security holders at any meeting thereof. 1973, c. 101, s. 120.

Trafficking
in lists

121. No person shall offer for sale or sell or purchase or otherwise traffic in a list or a copy of a list of all or any of the members of a co-operative. 1973, c. 101, s. 121.

Power of
court to
correct

122.—(1) Where the name of a person is, without sufficient cause, entered in or omitted from the records of a co-operative other than accounting records, or if default is made or unnecessary delay takes place in entering therein the fact of any person having ceased to be a security holder or member of the co-operative, the person aggrieved, or any security holder or member of the co-operative, or the co-operative itself, may apply to the court for an order that the records be rectified, and the court may dismiss such application or make an order for the rectification of the records and may direct the co-operative to compensate the party aggrieved for any damage he has sustained.

Decision
as to title

(2) Any court may, in any proceeding under this section, decide any question relating to the entitlement of a person who is a party to the proceeding to have his name entered in or omitted from such records whether the question arises between two or more security holders or members or alleged security holders or members, or between any security holders or members or alleged security holders or members and the co-operative.

Trial of
issue

(3) The court may direct an issue to be tried.

Jurisdiction
of court not
affected

(4) This section does not deprive any court of any jurisdiction it otherwise has. 1973, c. 101, s. 122.

AUDITORS AND FINANCIAL STATEMENTS

Exemption
from audit
provisions

123.—(1) Where in a financial year all the members in a co-operative that,

- (a) has fifteen or fewer members;
- (b) has capital not exceeding \$15,000 as shown on the financial statement of the co-operative for the preceding year; and
- (c) has assets not exceeding \$50,000 and sales or gross operating revenues not exceeding \$100,000, as shown on the financial statement of the co-operative for the preceding year,

consent in writing, the co-operative is exempt from sections 124 and 125, subsections 126 (1) and (2), section 127 and clause 128 (1) (b) and subsection 128 (3) in respect of the financial year in which the consent is given. 1973, c. 101, s. 123 (1).

(2) A co-operative that has never issued securities and that at the end of a financial year has less than \$5,000 in capital and less than \$5,000 in assets is exempt in respect of that year from sections 124 and 125, subsections 126 (1) and (2), section 127 and clause 128 (1) (b) and subsection 128 (3). 1978, c. 86, s. 19.

(3) For the purposes of this section, capital shall be computed by adding together the sums represented by the amounts of, ^{Interpretation of capital}

- (a) member and patronage loans made to the co-operative that are outstanding;
- (b) issued capital determined in accordance with section 29;
- (c) unsecured long-term debt; and
- (d) surplus,

as shown on the financial statement of the co-operative for the preceding year. 1973, c. 101, s. 123 (2).

124.—(1) The members of a co-operative at their first general meeting shall appoint one or more auditors to hold office until the close of the first annual meeting and, if the members fail to do so, the directors shall forthwith make such appointment or appointments. ^{Auditors}

(2) The members shall at each annual meeting appoint one or more auditors to hold office until the close of the next annual meeting and, if an appointment is not so made, the auditor in office continues in office until a successor is appointed. ^{Idem}

(3) The directors may fill any casual vacancy in the office of auditor, but, while such vacancy continues, the surviving or continuing auditor, if any, may act. ^{Casual vacancy}

(4) The members may, by resolution passed by a majority of the votes cast at a general meeting duly called for the purpose, remove an auditor before the expiration of his term of office, and shall by a majority of the votes cast at that meeting appoint another auditor in his stead for the remainder of his term. ^{Removal of auditor}

(5) Before calling a general meeting for the purpose specified in subsection (4), the co-operative shall, fifteen days or more before the mailing of the notice of the meeting, give to the auditor, ^{Notice to auditor}

- (a) written notice of the intention to call the meeting, specifying therein the date on which the notice of the meeting is proposed to be mailed; and
- (b) a copy of all material proposed to be sent to members in connection with the meeting.

Right of
auditor to
make repre-
sentations

(6) An auditor has the right to make to the co-operative, three days or more before the mailing of the notice of the meeting, representations in writing, concerning,

- (a) his proposed removal as auditor;
- (b) the appointment or election of another person to fill the office of auditor; or
- (c) his resignation as auditor,

and the co-operative, at its expense, shall forward with the notice of the meeting a copy of such representations to each member entitled to receive notice of the meeting.

Remuner-
ation

(7) The remuneration of an auditor appointed by the members shall be fixed by the members, or by the directors if they are authorized so to do by the members, and the remuneration of an auditor appointed by the directors shall be fixed by the directors.

Appointment
by court

(8) If for any reason no auditor is appointed, the court may, on the application of a member, appoint one or more auditors to hold office until the close of the next annual meeting and may fix the remuneration to be paid by the co-operative for his or their services.

Notice of
appointment

(9) The co-operative shall give notice in writing to an auditor of his appointment forthwith after the appointment is made. 1973, c. 101, s. 124.

Notice to
auditor of
proposal to
appoint
another

125.—(1) If, at an annual meeting of members, it is proposed to appoint an auditor, other than the incumbent auditor, the co-operative shall, fifteen days or more before the mailing of the notice of meeting, give to the incumbent auditor a written notice of management's intention not to recommend his re-appointment at the annual meeting, specifying therein the date on which the notice of the meeting is proposed to be mailed.

Right of
incumbent
auditor to
make rep-
resentations

(2) The incumbent auditor has the right to make to the co-operative, three days or more before the mailing of the notice of the meeting, representations in writing concerning the proposal not to reappoint him as auditor, and the co-operative,

at its expense, shall forward with the notice of the meeting a copy of such representations to each member entitled to receive notice of the meeting. 1973, c. 101, s. 125.

126.—(1) No person shall be appointed or act as auditor of a co-operative who is a director, officer or employee, or who has been, during the two years immediately preceding the proposed date of his appointment as auditor, a director, officer or employee of the co-operative or who is a partner, employer or employee of such director, officer or employee or who is a related person to any director or officer of the co-operative. Persons disqualified as auditors

(2) No person shall be appointed to act as auditor of a co-operative if he or any partner or employer of or related person to him transacts a material amount of business with the co-operative. Idem

(3) No person shall be appointed a receiver or a receiver and manager or liquidator of any co-operative of which he or any partner or employer of or a related person to him is the auditor or has been auditor within the two years preceding his appointment as receiver or receiver and manager or liquidator. Auditors not to be appointed receivers, etc.

(4) No person who is appointed a trustee of the estate of a co-operative under the *Bankruptcy Act* (Canada) or any partner or employer of or a related person to him shall be appointed or act as auditor of the co-operative. 1973, c. 101, s. 126. Trustee in bankruptcy not to be auditor
R.S.C. 1970, c. B-3

127.—(1) The auditor shall make such examination as will enable him to report to the members as required by subsection (2). Annual audit

(2) The auditor shall make a report to the members on the financial statement, other than the part thereof that relates to the period referred to in subclause 128 (1) (a) (ii), to be laid before the co-operative at any annual meeting during his term of office and shall state in his report whether in his opinion the financial statement referred to therein presents fairly the financial position of the co-operative and the results of its operations for the period under review in accordance with generally accepted accounting principles applied on a basis consistent with that of the preceding period, if any. Auditor's report

(3) Where the report under subsection (2) does not contain the unqualified opinion required thereby, the auditor shall state in his report the reasons therefor. Idem

(4) Where facts come to the attention of the officers or directors, Facts discovered after statement

- (a) which could reasonably have been determined prior to the date of the last annual meeting of the members; and
- (b) which, if known prior to the date of the last annual meeting of members, would have required a material adjustment to the financial statement presented to the meeting,

the officers or directors shall communicate such facts to the auditor who reported to the members under this section and the directors shall forthwith amend the financial statement and send it to the auditor.

Amendment
of auditor's
report

(5) On the receipt of facts furnished under subsection (4) or from any other source, the auditor shall, if in his opinion it is necessary, amend his report in respect of the financial statement in accordance with subsection (3) and the directors or, if they fail to do so within a reasonable time, the auditor shall mail such amended report to the members.

Idem

(6) If the financial statement contains a statement of changes in net assets or a statement of source and application of funds, the auditor shall include in his report a statement whether in his opinion, in effect, the statement of changes in net assets or the statement of source and application of funds presents fairly the information shown therein.

Idem

(7) Whether or not the assets and liabilities and income and expense of any one or more subsidiaries of a co-operative are included in the financial statement of the co-operative, the report of the auditor of the co-operative required by subsection (2) may refer to the reports of auditors of one or more of such subsidiaries, but such reference shall not derogate from the duty of the auditor of the co-operative to comply with subsection (2).

Idem

(8) The auditor in his report shall make such statements as he considers necessary,

- (a) if the co-operative's financial statement is not in agreement with its accounting records;
- (b) if the co-operative's financial statement is not in accordance with the requirements of this Act;
- (c) if he has not received all the information and explanations that he has required; or
- (d) if proper accounting records have not been kept, so far as appears from his examination.

(9) The auditor of a co-operative has right of access at all times to all records, documents, accounts and vouchers of the co-operative and is entitled to require from the directors, officers and employees of the co-operative such information and explanation as in his opinion are necessary to enable him to report as required by subsection (2). Right of access, etc.

(10) The auditor of a co-operative has right of access at all times to all records, documents, accounts and vouchers of all subsidiaries of the co-operative and is entitled to require from the directors, officers and employees of each such subsidiary such information and explanation as in his opinion are necessary to enable him to report as required by subsection (2). Idem

(11) Where a subsidiary referred to in subsection (10) is a corporation to which this Act does not apply, the co-operative shall make available to its auditor the records, documents, accounts and vouchers of that subsidiary and shall require the directors, officers and employees of that subsidiary to make available to its auditor the information and explanation required by subsection (10). Idem

(12) The auditor of a co-operative is entitled to attend any meeting of members of the co-operative and to receive all notices and other communications relating to any such meeting that a member is entitled to receive, and to be heard at any such meeting that he attends on any part of the business of the meeting that concerns him as auditor. Auditor may attend members' meetings

(13) Any member of a co-operative, whether or not he is entitled to vote at meetings of members, may, by notice in writing to the co-operative given five days or more before any meeting of members, require the attendance of the auditor at such meeting at the co-operative's expense, and in such event the auditor shall attend the meeting. Member may require auditor's attendance at members' meeting

(14) At any meeting of members, the auditor, if present, shall answer inquiries directed to him concerning the bases upon which he formed the opinion stated in the report made under subsection (2). 1973, c. 101, s. 127. Auditors must answer inquiries

128.—(1) The directors shall lay before each annual meeting of members, Information to be laid before annual meeting

(a) a comparative financial statement relating separately to,

(i) the period that commenced on the date of incorporation and ended not more than six months before the annual meeting or, if the

co-operative has completed a financial year, that commenced immediately after the end of the last completed financial year and ended not more than six months before the annual meeting, as the case may be, and

- (ii) the period covered by the financial year next preceding such latest completed financial year, if any,

made up of,

- (iii) a statement of profit and loss for each period,

- (iv) a statement of surplus for each period,

- (v) a statement of patronage returns allocated to members during the year,

- (vi) a statement of source and application of funds for each period, and

- (vii) a balance sheet as at the end of each period;

- (b) the report of the auditor to the members; and

- (c) such further information respecting the financial position of the co-operative as the articles or by-laws of the co-operative require.

Designation
of
statements

- (2) It is not necessary to designate the statements referred to in subsection (1) as the statement of profit and loss, statement of surplus, statement of patronage returns, statement of source and application of funds and balance sheet.

Auditor's
report to
be read

- (3) The report of the auditor to the members shall be read at the annual meeting and shall be open to inspection at the meeting by any member. 1973, c. 101, s. 128.

Statement
of profit
and loss

- 129.**—(1) The statement of profit and loss to be laid before an annual meeting shall be drawn up so as to present fairly the results of the operations of the co-operative for the period covered by the statement and so as to distinguish severally at least,

- (a) sales or gross operating revenue;

- (b) the operating profit or loss before including or providing for other items of income or expense that are required to be shown separately;

- (c) income from investments in subsidiaries whose financial statements are not consolidated with those of the co-operative;
- (d) income from other investments;
- (e) non-recurring profits and losses of significant amount including profits or losses on the disposal of capital assets and other items of a special nature to the extent that they are not shown separately in the statement of earned surplus;
- (f) any provision for depreciation or for obsolescence or for depletion;
- (g) amounts written off for goodwill or amortization of any other intangible assets to the extent that they are not shown separately in the statement of earned surplus;
- (h) interest on indebtedness initially incurred for a term of more than one year, including amortization of debt discount or premium and expense; and
- (i) taxes on income imposed by any taxing authority,

and shall show the net profit or loss for the financial period.

(2) Notwithstanding subsection (1), items of the nature^{Idem} described in clauses (1) (f) and (g) may be shown by way of note to the statement of profit and loss. 1973, c. 101, s. 129.

130.—(1) The statement of surplus to be laid before an annual meeting shall be drawn up so as to present fairly the transactions reflected in the statement and shall show separately a statement of contributed surplus and a statement of earned surplus. 1973, c. 101, s. 130 (1).^{Statement of surplus}

(2) The statement of contributed surplus shall be drawn up so as to include and distinguish at least the following items:^{Contributed surplus}

1. The balance of such surplus at the end of the preceding financial period.
2. The additions to and deductions from such surplus during the financial period including,
 - i. the amount of surplus arising from the reorganization of the co-operative's issued

capital, including *inter alia*, the amount of surplus realized on the purchase of shares,

ii. donations of cash or other property by members, and

iii. the amount of membership fees.

3. The balance of such surplus at the end of the financial period. 1973, c. 101, s. 130 (2); 1978, c. 86, s. 20.

**Earned
surplus**

(3) The statement of earned surplus shall be drawn up so as to distinguish at least the following items:

1. The balance of such surplus at the end of the preceding financial period.

2. The additions to and deductions from such surplus during the financial period and without restricting the generality of the foregoing at least the following:

i. The amount of the net profit or loss for the financial period.

ii. The amount of dividends declared on each class of shares.

iii. The amount of patronage returns allocated to members.

iv. The amount transferred to or from reserves.

3. The balance of such surplus at the end of the financial period. 1973, c. 101, s. 130 (3).

**Treatment
of patronage
returns**

131. Where a co-operative allocates patronage returns, the statement referred to in subclause 128 (1) (a) (v) shall be drawn up to distinguish patronage returns according to services or products or groups of products acquired, marketed, handled, dealt in or sold or rendered by the customer or by the co-operative and such statement shall be so drawn as to present fairly the information shown therein for the period and show separately for members and non-members the amount of patronage returns allocated to each service, product or groups of products. 1973, c. 101, s. 131.

132. The statement of source and application of funds referred to in subclause 128 (1) (b) (vi) shall be drawn up so as to present fairly the information shown therein for the period, and shall show of funds separately at least,

(a) funds derived from,

- (i) current operations,
- (ii) sale of non-current assets, segregating investments, fixed assets and intangible assets,
- (iii) issue of debt obligations, including member loans, or other indebtedness maturing more than one year after issue,
- (iv) issue of shares,
- (v) membership fees; and

(b) funds applied to,

- (i) purchase of non-current assets, segregating investments, fixed assets and intangible assets,
- (ii) redemption or other retirement of debt obligations or repayment of other indebtedness maturing more than one year after issue,
- (iii) redemption or other retirement of shares,
- (iv) payment of dividends,
- (v) repayment of patronage loans,
- (vi) payment of cash patronage returns, and
- (vii) repayment of member loans. 1973, c. 101, s. 132.

133.—(1) The balance sheet to be laid before an annual meeting shall be drawn up so as to present fairly the financial position of the co-operative as at the date to which it is made up and so as to distinguish severally at least the following:

1. Cash.
2. Debts owing to the co-operative from its directors, officers or members, except debts of reasonable amount

arising in the ordinary course of its business that are not overdue having regard to its ordinary terms of credit.

3. Debts owing to the co-operative, whether on account of a loan or otherwise, from subsidiaries whose financial statements are not consolidated with those of the co-operative.
4. Other debts owing to the co-operative segregating those that arose otherwise than in the ordinary course of its business.
5. Inventory, stating the basis of valuation.
6. Shares, bonds, debentures and other investments owned by the co-operative, except those referred to in paragraph 7, stating their nature and the basis of their valuation and showing separately those that are marketable with a notation of their market value.
7. Securities of subsidiaries whose financial statements are not consolidated with those of the co-operative, stating the basis of valuation.
8. Lands, buildings and plant and equipment, stating the basis of valuation, whether cost or otherwise, and, if valued on the basis of an appraisal, the date of appraisal, the name of the appraiser, the basis of the appraisal value and, if such appraisal took place within five years preceding the date to which the balance sheet is made up, the disposition in the accounts of the co-operative of any amounts added to or deducted from such assets on appraisal and also the amount or amounts accumulated in respect of depreciation, obsolescence and depletion.
9. There shall be stated under separate headings, in so far as they are not written off,
 - i. expenditures on account of future business,
 - ii. any expense incurred in connection with any issue of shares,
 - iii. any expense incurred in connection with any issue of debt obligations, including any discount thereon, and
 - iv. any one or more of the following: goodwill, franchises, patents, copyrights, trade marks

and other intangible assets and the amount, if any, by which the value of any such assets has been written up within a period of five years preceding the date to which the balance sheet is made up.

10. Bank loans and overdrafts.
11. Debts owing by the co-operative, except those referred to in paragraphs 12 and 13, on loans from its directors, officers or members.
12. Debts owing by the co-operative on loans from members, called "member loans" referred to in section 49.
13. Debts owing by the co-operative to members on the compulsory loans of patronage returns referred to in subsection 56 (4).
14. Debts owing by the co-operative to subsidiaries whose financial statements are not consolidated with those of the co-operative, whether on account of a loan or otherwise.
15. Other debts owing by the co-operative, segregating those that arose otherwise than in the ordinary course of its business.
16. Liability for taxes, including the estimated liability for taxes in respect of the income of the period covered by the statement of profit and loss.
17. Dividends declared but not paid.
18. Deferred income.
19. Debt obligations issued by the co-operative, stating the interest rate, the maturity date, the amount outstanding and the existence of sinking fund, redemption requirements and conversion rights, if any.
20. The authorized capital, giving the number of each class of shares and a brief description of each such class, and indicating therein any class of shares that is redeemable and the redemption price thereof.
21. The issued capital, giving the number of shares of each class issued and outstanding and the amount

received therefor that is attributable to capital, and showing,

- i. the number of shares of each class issued since the date of the last preceding balance sheet and the value attributed thereto, distinguishing shares issued for cash, shares issued for services and shares issued for other consideration, and
- ii. where any shares issued before this Act comes into force have not been fully paid,
 - a. the number of shares in respect of which calls have not been made and the aggregate amount that has not been called, and
 - b. the number of shares in respect of which calls have been made and not paid and the aggregate amount that has been called and not paid.

22. Contributed surplus.

23. Earned surplus.

24. Reserves, showing the amounts added thereto and the amounts deducted therefrom during the financial period.

25. The aggregate number of shares of the co-operative purchased and resold since the date of the last preceding balance sheet.

Notes

(2) Explanatory information or particulars of any item mentioned in subsection (1) may be shown by way of note to the balance sheet. 1973, c. 101, s. 133.

Notes to
financial
statement

134.—(1) There shall be stated by way of note to the financial statement particulars of any change in accounting principle or practice or in the method of applying any accounting principle or practice made during the period covered that affects the comparability of any of the statements with any of those for the preceding period, and the effect, if material, of any such change upon the profit or loss for the period.

Change in
accounting
practice

(2) For the purpose of subsection (1), a change in accounting principle or practice or in the method of applying any accounting principle or practice affects the comparability of a state-

ment with that for the preceding period, even though such change did not have a material effect upon the profit or loss for the period.

(3) Where applicable, the following matters shall be referred ^{Idem} to in the financial statement or by way of note thereto:

1. The basis of conversion of amounts from currencies other than the currency in which the financial statement is expressed.
2. Foreign currency restrictions that affect the assets of the co-operative.
3. Contractual obligations that will require abnormal expenditures in relation to the co-operative's normal business requirements or financial position or that are likely to involve losses not provided for in the accounts.
4. Material contractual obligations in respect of long-term leases, including, in the year in which the transaction was effected, the principal details of any sale and lease transaction.
5. Contingent liabilities, stating their nature and, where practicable, the approximate amounts involved.
6. Any liability secured otherwise than by operation of law on any asset of the co-operative, stating the liability so secured.
7. Any default of the co-operative in principal, interest, sinking fund or redemption provisions with respect to any issue of its debt obligations or credit agreements.
8. The gross amount of arrears of dividends on any class of shares and the date to which such dividends were last paid.
9. Where a co-operative has contracted to issue shares or has given an option to purchase shares, the class and number of shares affected, the price and the date for issue of the shares or exercise of the option.
10. Where a co-operative has contracted to purchase or resell common shares, the number of shares affected and price and date for the purchase or resale.

11. The aggregate direct remuneration paid or payable by the co-operative and its subsidiaries whose financial statements are consolidated with those of the co-operative to the directors and the senior officers and, as a separate amount, the aggregate direct remuneration paid or payable to such directors and senior officers by the subsidiaries of the co-operative whose financial statements are not consolidated with those of the co-operative.
12. In the case of a co-operative with subsidiaries, the aggregate of any shares in, and the aggregate of any debt obligations of, that co-operative held by a subsidiary corporation whose financial statements are not consolidated with those of the co-operative.
13. The amount of any loans by the co-operative, or by a subsidiary corporation, otherwise than in the ordinary course of business, during the co-operative's financial period, to the directors or officers of the co-operative.
14. Any restriction by the articles or by-laws of the co-operative or by contract on the payment of dividends that is significant in the light of the co-operative's financial position.
15. Any event or transaction, other than one in the normal course of business operations, between the date to which the financial statement is made up and the date of the auditor's report thereon that materially affects the financial statement.
16. The amount of any obligation for pension benefits arising from service before the date of the balance sheet, whether or not such obligation has been provided for in the accounts of the co-operative, the manner in which the co-operative proposes to satisfy such obligation and the basis on which it has charged or proposes to charge the related costs against operations.
17. Brief particulars of any action to which the co-operative is a party commenced under section 68 during the period.
18. In the case of a co-operative that transacts business with non-members,
 - (i) where the amount of business transacted with non-members exceeds 20 per cent, a statement setting out the percentage of such business, or

- (ii) where the amount of business transacted with non-members does not exceed 20 per cent, a statement to this effect.

(4) A note to a financial statement is a part of it. Idem

(5) In this section, "senior officer" does not include each of the five highest paid employees of a co-operative. 1973, c. 101, s. 134. Interpretation of senior officer

135.—(1) A co-operative, in this section referred to as "the holding co-operative", may include in the financial statement to be submitted at an annual meeting the assets and liabilities and income and expense of any one or more of its subsidiaries, making due provision for minority interests, if any, and indicating in such financial statement that it is presented in consolidated form. Consolidated financial statement

(2) Where the assets and liabilities and income and expense of any one or more subsidiaries of the holding co-operative are not so included in the financial statement of the holding co-operative, Non-consolidated financial statement

(a) the financial statement of the holding co-operative shall include a statement setting forth,

- (i) the reason why the assets and liabilities and income and expense of such subsidiary or subsidiaries are not included in the financial statement of the holding co-operative,
- (ii) if there is only one such subsidiary, the amount of the holding co-operative's proportion of the profit or loss of the subsidiary for the financial period coinciding with or ending in the financial period of the holding co-operative, or, if there is more than one such subsidiary, the amount of the holding co-operative's proportion of the aggregate profits less losses, or losses less profits, of all the subsidiaries for the respective financial periods coinciding with or ending in the financial period of the holding co-operative,
- (iii) the amount included as income from such subsidiary or subsidiaries in the statement of profit and loss of the holding co-operative and the amount included therein as a provision for the loss or losses of the subsidiary or subsidiaries,

- (iv) if there is only one such subsidiary, the amount of the holding co-operative's proportion of the undistributed profits of the subsidiary earned since the acquisition of the shares of the subsidiary by the holding co-operative to the extent that such amount has not been taken into the accounts of the holding co-operative, or, if there is more than one such subsidiary, the amount of the holding co-operative's proportion of the aggregate undistributed profits of all the subsidiaries earned since the acquisition of their shares by the holding co-operative less its proportion of the losses, if any, suffered by any subsidiary since the acquisition of its shares to the extent that such amount has not been taken into the accounts of the holding co-operative,
 - (v) any qualifications contained in the report of the auditor of any such subsidiary on its financial statement for the financial period ending as aforesaid, and any note or reference contained in that financial statement to call attention to a matter that, apart from the note or reference, would properly have been referred to in such a qualification, in so far as the matter that is the subject of the qualification or note is not provided for by the co-operative's own financial statement and is material from the point of view of its members;
- (b) if for any reason the directors of the holding co-operative are unable to obtain such information as is necessary for the preparation of the statement that is to be included in the financial statement of the holding co-operative, the directors who sign the financial statement shall so report in writing and their report shall be included in the financial statement in lieu of the statement ;
- (c) if, in the opinion of the auditor of the holding co-operative, adequate provision has not been made in the financial statement of the holding co-operative for the holding co-operative's proportion,
- (i) where there is only one such subsidiary, of the loss of the subsidiary suffered since acquisition of its shares by the holding co-operative, or

- (ii) where there is more than one such subsidiary, of the aggregate losses suffered by the subsidiaries since acquisition of their shares by the holding co-operative in excess of its proportion of the undistributed profits, if any, earned by any of the subsidiaries since such acquisition,

the auditor shall state in his report the additional amount that in his opinion is necessary to make full provision therefor.

(3) Whether or not the assets and liabilities and income and expense of any one or more subsidiaries of a holding co-operative are included in the financial statement of the holding co-operative, true copies of the latest financial statement of the subsidiary or subsidiaries shall be kept on hand by the holding co-operative at its head office and shall be open to examination by the members of the holding co-operative on request during the normal business hours of the holding co-operative. 1973, c. 101, s. 135.

Copies of
subsidiary
statement

136. Notwithstanding sections 129 to 135, it is not necessary to state in a financial statement any matter that in all the circumstances is of relative insignificance. 1973, c. 101, s. 136.

Insignificant
circum-
stances

137. In a financial statement, the term "reserve" shall be used to describe only,

Reserve

- (a) amounts appropriated from earned surplus at the discretion of management for some purpose other than to meet a liability or contingency known or admitted or a commitment made as at the statement date or a decline in value of an asset that has already occurred;
- (b) amounts appropriated from earned surplus pursuant to the articles or by-laws of the co-operative for some purpose other than to meet a liability or contingency known or admitted or a commitment made as at the statement date or a decline in value of an asset that has already occurred; and
- (c) amounts appropriated from earned surplus in accordance with the terms of a contract and that can be restored to the earned surplus when the conditions of the contract are fulfilled. 1973, c. 101, s. 137.

138.—(1) The directors of a co-operative may elect annually from among their number a committee to be known as the audit committee to be composed of not fewer than three

Audit
committee

directors, of whom a majority shall not be officers or employees of the co-operative to hold office until the next annual meeting of the members.

Chairman

(2) The members of the audit committee shall elect a chairman from among their number.

Review

(3) The co-operative shall submit the financial statement to the audit committee for its review and the financial statement shall thereafter be submitted to the board of directors.

Hearing
of auditor

(4) The auditor has the right to appear before and be heard at any meeting of the audit committee and shall appear before the audit committee when required to do so by the committee.

Idem

(5) Upon the request of the auditor, the chairman of the audit committee shall convene a meeting of the committee to consider any matters the auditor believes should be brought to the attention of the directors or members.

Right of
auditor to
be heard

(6) The auditor of a co-operative shall be entitled to attend and be heard at meetings of the board of directors of the co-operative on matters relating to his duties as auditor. 1973, c. 101, s. 138.

Approval by
directors

139.—(1) The financial statement shall be approved by the board of directors and the approval shall be evidenced by the signature at the foot of the balance sheet by two of the directors duly authorized to sign and the auditor's report, unless the co-operative is exempt under section 123, shall be attached to or accompany the financial statement.

Rights of
auditor
where no
audit
committee

(2) The auditor of a co-operative that has not elected an audit committee for the year to which the financial statement relates, is entitled,

(a) to receive notice of and to attend the meeting of directors called to approve the financial statement under subsection (1); and

(b) to request a meeting of the board of directors of the co-operative to consider any matters the auditor believes should be brought to their attention, and upon his request, the president of the co-operative shall convene such a meeting. 1973, c. 101, s. 139.

Mailing of
financial
statement to
members

140.—(1) A co-operative shall, ten days or more before the date of the annual meeting of members, send by prepaid mail to each member at his latest address as shown

on the records of the co-operative a copy of the financial statement and, subject to section 123, a copy of the auditor's report.

(2) The directors of such co-operative shall send by prepaid mail to each such member a copy of any financial statement and auditor's report amended under subsections 127 (4) and (5). 1973, c. 101, s. 140.

141.—(1) A co-operative shall file with the Minister its financial statements and, subject to section 123, a copy of its auditor's report that are required to be mailed by the co-operative to its members. ^{Idem} ^{Financial statements to be filed with Minister}

(2) The financial statements and auditor's report where required, shall be sent to the Minister on the same date such statements are mailed or required to be mailed by the co-operative to its members, whichever is the earlier. 1973, c. 101, s. 141.

MAINTENANCE OF CO-OPERATIVE STATUS

142.—(1) Upon the request of the Minister, every co-operative shall furnish to the Minister such information as he may require to enable him, ^{Information to be furnished to Minister}

- (a) to compile statistical records and information in such form as the Minister may require;
- (b) to facilitate the carrying on of research projects;
- (c) to establish that all persons to whom this Act applies are not in contravention of this Act; and
- (d) to establish that the business and affairs of the co-operative are being conducted on a co-operative basis.

(2) The Minister or any employee in the Ministry shall not disclose any information contained in a return made under subsection (1), except where that disclosure is necessary for the administration or enforcement of this Act or where the disclosure is required by a court for the purposes of an action, prosecution or other proceeding. 1973, c. 101, s. 142. ^{Information not to be disclosed}

143. Where the Minister is of the opinion that the business and affairs of the co-operative are not being conducted on a co-operative basis, he may, after giving the co-operative an opportunity to be heard, ^{Affairs not conducted on co-operative basis}

- (a) issue a certificate of amendment changing the co-operative into a corporation subject to the

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provisions of the *Business Corporations Act* and when necessary for the purpose, changing the co-operative into a corporation with share capital; or

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- (b) issue a certificate of amendment changing the co-operative into a corporation subject to the provisions of Part III of the *Corporations Act* and where necessary for the purpose, changing the co-operative into a corporation without share capital. 1978, c. 86, s. 21.

Limit to
non-member
business

144.—(1) Where the Minister is of the opinion that a co-operative has for a period of three years or longer conducted 50 per cent or more of its business with non-members of that co-operative, he may, after giving the co-operative an opportunity to be heard,

- (a) issue a certificate of amendment changing the co-operative into a corporation subject to the provisions of the *Business Corporations Act* and where necessary for the purpose, changing the co-operative into a corporation with share capital; or
- (b) issue a certificate of amendment changing the co-operative into a corporation subject to the provisions of Part III of the *Corporations Act* and where necessary for the purpose, changing the co-operative into a corporation without share capital. 1978, c. 86, s. 22.

Idem

(2) For the purposes of subsection (1), the amount of business conducted by a co-operative with a non-member means the value of goods or products acquired, marketed, handled, dealt in or sold or services rendered by the co-operative, on behalf of or for the non-members expressed as a percentage of the total value of goods or products acquired, marketed, handled, dealt in or sold or services rendered by the co-operative from, on behalf of, or for all customers during the year.

Idem

(3) For the purposes of computing the amount of business under subsection (2), there shall not be included in the amount of business conducted with non-members, the value of goods or products acquired, marketed, handled, dealt in or sold or services rendered by the co-operative from, on behalf of or for non-members who are required to conduct business with the co-operative by a marketing plan established under an Act of the Legislature or of the Parliament of Canada. 1973, c. 101, s. 144 (2, 3).

145.—(1) If a co-operative exercises its corporate powers when its members are fewer in number than five for a period of more than six months after the number has been so reduced, each person who was a member of the co-operative during the time that it so exercised its corporate powers after such period of six months and is aware of the fact that it so exercised its corporate powers is severally liable for the payment of the whole of the debts of the co-operative contracted during such time and may be sued for the debts without the joinder in the action of the co-operative or of any other member.

Members
not to
number
fewer
than five

(2) A member who has become aware that the co-operative is so exercising its corporate powers may serve a protest in writing on the co-operative and may by registered letter notify the Minister of such protest having been served and of the facts upon which it is based, and such member may thereby and not otherwise, from the date of his protest and notification, exonerate himself from liability.

Saving

(3) If after notice from the Minister the co-operative refuses or neglects to bring the number of its members up to five or more, such refusal or neglect may be regarded by the Minister as sufficient cause for the cancellation of the certificate of incorporation or any certificate issued by him under this Act. 1973, c. 101, s. 145.

Notice and
penalty

INVESTIGATIONS

146.—(1) Upon application by a member of a co-operative, the court, if satisfied that the application is made in good faith and that it is *prima facie* in the interests of the co-operative or the holders of its securities to do so, may make an order, upon such terms as to the costs of the investigation or audit or otherwise as to the court seems fit, appointing an inspector to investigate the affairs and management of the co-operative or any subsidiary of the co-operative, or both, and to audit the accounts and records of the co-operative or any affiliate thereof named in the order.

Investi-
gations and
audits

(2) An order may be made under subsection (1) whether or not there has been disclosure to the members of the co-operative of information relating to any matter on the basis of which the order is made.

Idem

(3) Every director, officer, agent, employee, banker and auditor of the co-operative or of any subsidiary of the co-operative named in the order and every other person shall produce for the examination of the inspector all accounts and records of or relating to the co-operative or subsidiary in their custody or control.

Production
of accounts
and records

Examination
may be
under oath

(4) The inspector may examine upon oath any présent or former director, officer, agent or employee of the co-operative or subsidiary in relation to its affairs, management, accounts and records.

Court order
for
examination

(5) The court may, on the application of the inspector, on such terms and conditions as it sees fit, order any person not mentioned in subsection (4) to attend and be examined under oath before the inspector on any matter relevant to the investigation or audit.

Offences

(6) Every director, officer, agent, employee, banker or auditor who refuses to produce any account or record referred to in subsection (3) and every person examined under subsection (4) or (5) who refuses to answer any question related to the affairs and management of the co-operative or any subsidiary is guilty of an offence under section 176, in addition to any other liability to which he is subject.

Inspector's
report

(7) The inspector shall make a report to the court and shall forward a copy of the report to the co-operative and any subsidiary of the co-operative named in the order and to the person who made the application under subsection (1). 1973, c. 101, s. 146.

Co-operative
may appoint
inspector
for same
purpose

147.—(1) A co-operative may, by resolution passed at an annual meeting of members or a general meeting of members called for that purpose, appoint an inspector to investigate its affairs and management.

Powers and
duties of
inspector

(2) The inspector appointed under subsection (1) has the same powers and shall perform the same duties as an inspector appointed under section 146 and he shall make his report in such manner and to such persons as the co-operative by resolution of the members directs. 1973, c. 101, s. 147.

Where
Minister
to appoint
inspector

148.—(1) Notwithstanding anything contained in section 146 or 147, the Minister shall appoint in writing an inspector to investigate and report on the affairs and management of a co-operative or its subsidiaries if 10 per cent of the members of the co-operative request in writing such investigation and show circumstances suggesting that,

- (a) the business of the co-operative or any of its subsidiaries is or has been carried on with intent to defraud any person;
- (b) the business or affairs of the co-operative or any of its subsidiaries are or have been carried on or conducted, or the powers of the directors are or have

been exercised, in a manner oppressive or unfairly prejudicial to or in disregard of the interests of a security holder;

- (c) the co-operative or any of its subsidiaries was formed for a fraudulent or unlawful purpose or is to be dissolved for a fraudulent or unlawful purpose; or
- (d) persons concerned with the formation, business or affairs of the co-operative or any of its subsidiaries have in connection therewith acted fraudulently or dishonestly.

(2) The Minister may on his own initiative appoint in ^{Idem} writing an inspector to investigate and report on the affairs and management of a co-operative or its subsidiaries if it appears that there exist any of the circumstances mentioned in clause (1) (a), (b), (c) or (d).

(3) Every person shall produce for the examination of the ^{Production of accounts and records} inspector all accounts and records in their custody or control which relate to the co-operative or any of its subsidiaries.

(4) The inspector may examine upon oath any present or ^{Examination may be under oath} former director, officer, agent or employee of the co-operative or any of its subsidiaries in relation to its affairs, management, accounts and records.

(5) Upon an application to the court by the inspector, the ^{Court order for examination} court may, on such terms and conditions as it sees fit, order any person not mentioned in subsection (4) to attend and be examined under oath before the inspector on any matter relevant to the investigation.

(6) Every director, officer, agent, employee, banker or ^{Offences} auditor who refuses to produce any account or record referred to in subsection (3) and every person examined under subsection (4) or (5) who refuses to answer any question related to the affairs and management of the co-operative or any of its subsidiaries is guilty of an offence under section 176 in addition to any other liability to which he is subject.

(7) The inspector shall deliver the report of his investigation to the Minister and the Minister may forward a copy of the report to the co-operative and any subsidiary of the co-operative investigated. 1973, c. 101, s. 148. ^{Report to be made to Minister}

149. Where it appears from the report of an inspector ^{Remedies} made under section 146, 147 or 148 that any of the circum-

stances set out in clause 148 (1) (a), (b), (c) or (d) exist, the Minister may, notwithstanding any other remedies available,

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- (a) apply under clause 208 (d) of the *Business Corporations Act* to wind up the co-operative by order of the court;
- (b) cancel the certificate of incorporation for cause under section 166;
- (c) require, or apply to the court for an order under section 78 requiring, the directors of the co-operative to call a general meeting of members; or
- (d) refer the report of the inspector to the Attorney General. 1973, c. 101, s. 149.

Report
admissible
in
proceedings

150. A copy of the report of an inspector appointed under this Act authenticated by the registrar of the court or in the case of an investigation under section 147 or 148 by the inspector is admissible in any legal proceeding and is evidence of the opinion of the inspector in relation to any matter contained in the report. 1973, c. 101, s. 150.

REORGANIZATION

Amendment of Articles

Amendments

151.—(1) A co-operative may, from time to time, amend its articles of incorporation to,

- (a) change its name;
- (b) extend, limit or otherwise vary its objects;
- (c) increase its authorized capital;
- (d) decrease its authorized capital by cancelling shares whether issued or unissued or by reducing the par value of issued or unissued shares;
- (e) increase or decrease the membership fee;
- (f) increase or decrease the minimum amount of member loans;
- (g) redivide its authorized capital into shares of lesser or greater par value;

- (h) redesignate any class of shares;
- (i) reclassify any shares into shares of a different class;
- (j) delete or vary any provision in its articles;
- (k) provide for any other matter or thing that is authorized by this Act to be set out in the articles or that could be the subject of a by-law of the co-operative;
- (l) convert it into a co-operative with or without share capital;

(m) convert it into a corporation to which the *Business Corporations Act* applies; R.S.O.
c. 54

(n) convert it into a corporation to which Part III of the *Corporations Act* applies. 1973, c. 101, s. 151 (1); 1978, c. 86, s. 23 (1). R.S.O. 1980,
c. 95

(2) An amendment under subsection (1), except clauses (l), (m) and (n), shall be authorized by a special resolution. 1978, c. 86, s. 23 (2). Authoriza-
tion

(3) Subject to section 152, an amendment under clause (1) (l), (m) or (n) shall be authorized by a resolution of the board of directors and confirmed by at least three-quarters of the votes cast at a general meeting of the members of the co-operative duly called for that purpose. 1978, c. 86, s. 23 (3). Idem

(4) If the amendment is to delete or vary a preference, right, condition, restriction, limitation or prohibition attaching to a class of preference shares or to create preference shares, ranking in any respect in priority to or on a parity with an existing class of preference shares, then, in addition to the confirmation required by subsection (2), the resolution is not effective until it has been confirmed, Additional
authorization
for
variation of
rights of
preference
shares

(a) by 100 per cent of the holders of the shares of such class or classes of shares in writing; or

(b) in writing by at least 95 per cent of the holders of the shares of such class or classes of shares holding at least 95 per cent of the issued shares of such class or classes and after twenty-one days notice of the resolution and confirmation has been given by sending the notice to each of the holders of shares of such class or classes to his latest address as shown on the records of the co-operative and only if at the expira-

tion of twenty-one days none of the holders of such class or classes has dissented in writing to the co-operative; or

- (c) if the articles so provide, by at least two-thirds of the votes cast at a meeting of the holders of such class or classes of shares duly called for that purpose or such greater proportion of the votes cast as the articles provide,

and by such additional authorization as the articles provide. 1973, c. 101, s. 151 (4).

Conversion
of co-
operative to
corporation

152.—(1) Notwithstanding subsection 151 (3), where a co-operative is no longer able to conduct its business and affairs on a co-operative basis by reason of the provisions of an Act of the Legislature or of the Parliament of Canada, the co-operative may apply to the Minister for a certificate of amendment converting the co-operative to a corporation to which the *Business Corporations Act* applies and, where necessary for the purpose, changing the co-operative into a corporation with share capital.

R.S.O. 1980,
c. 54

Authoriza-
tion

(2) An application under subsection (1) shall be authorized by special resolution. 1973, c. 101, s. 152.

Articles of
amendment

153.—(1) For the purpose of bringing an amendment to the articles into effect, the co-operative shall deliver to the Minister, within six months after the resolution has become effective, articles of amendment in duplicate, executed under the seal of the co-operative and signed by two officers, or by one director and one officer, of the co-operative and verified by affidavit of one of the officers or directors signing the articles of amendment, setting out,

- (a) the name of the co-operative;
- (b) a certified copy of the resolution;
- (c) that the amendment has been duly authorized as required by subsections 151 (2), (3) and (4); and
- (d) the date of the confirmation of the resolution by the members.

Change
of name

(2) Where the articles of amendment are to change the name of the co-operative, the articles of amendment shall be accompanied by evidence that establishes to the satisfaction of the Minister that the co-operative is not insolvent.

(3) Where the articles of amendment are to decrease the ^{Decrease of capital} authorized capital, the articles of amendment shall be accompanied by evidence that establishes to the satisfaction of the Minister that the co-operative is not insolvent and that the decrease will not render the co-operative insolvent, and, if required by the Minister, by evidence that establishes to his satisfaction that no creditors object to the amendment.

(4) Where the articles of amendment are to make any ^{Pro forma balance sheet} change in the authorized capital, the articles of amendment shall, if required by the Minister, be accompanied by a *pro forma* balance sheet after giving effect to the proposed change. 1973, c. 101, s. 153.

154.—(1) If the articles of amendment conform to law, ^{Certificate of amendment} the Minister shall, when all prescribed fees have been paid,

(a) endorse on each duplicate of the articles of amendment the word "Filed" and the day, month and year of the filing thereof;

(b) file one of the duplicates in his office; and

(c) issue to the co-operative or its agent a certificate of amendment to which he shall affix the other duplicate.

(2) The amendment becomes effective upon the date set forth in the certificate of amendment and the articles of incorporation are amended accordingly. 1973, c. 101, s. 154.

Restatement of Articles

155.—(1) A co-operative may at any time restate its ^{Restatement of articles} articles of incorporation as theretofore amended.

(2) For the purposes of bringing the restated articles into effect, the co-operative shall deliver to the Minister the restated articles in duplicate, executed under the seal of the co-operative and signed by two officers, or by one director and one officer, of the co-operative and verified by affidavit of one of the officers or directors signing the restated articles, setting out, ^{Filing of restatement}

(a) all the provisions that are then set out in the original articles of incorporation as theretofore amended; and

(b) a statement that the restated articles correctly set out without change the corresponding provisions of the original articles as theretofore amended.

Certificate of
restatement

(3) If the restated articles of incorporation conform to law, the Minister shall, when all prescribed fees have been paid,

- (a) endorse on each duplicate of the restated articles the word "Filed" and the day, month and year of the filing thereof;
- (b) file one of the duplicates in his office; and
- (c) issue to the co-operative or its agent a restated certificate of incorporation to which he shall affix the other duplicate.

Effect of
certificate

(4) The restated articles of incorporation become effective upon the date set forth in the restated certificate and supersede the original articles of incorporation and all amendments thereto.

Where special
Act ceases
to apply

(5) Where a certificate of restatement is issued to a co-operative incorporated by special Act, the co-operative is continued as if it had been incorporated under this Act and the special Act ceases to apply to the co-operative. 1973, c. 101, s. 155.

Amalgamations and Continuations

Amalgama-
tion

156.—(1) Any two or more co-operatives may amalgamate and continue as one co-operative.

Agreement

(2) The co-operatives proposing to amalgamate shall enter into an agreement for the amalgamation, prescribing the terms and conditions of the amalgamation and the mode of carrying the amalgamation into effect, and, in particular the agreement shall set out, as may be applicable,

- (a) the name of the amalgamated co-operative;
- (b) the objects of the amalgamated co-operative;
- (c) the place in Ontario where the head office of the amalgamated co-operative is to be located, giving the municipality and the county or district or, where the head office is to be located in territory without municipal organization, the geographic township and district, and giving the street and number, if any;
- (d) the authorized capital of the amalgamated co-operative, the classes of shares, if any, into which it is to be divided, the number of shares of each class, and the par value of each share;
- (e) where there are to be preference shares, the designations, preferences, rights, conditions, restrictions,

limitations or prohibitions applying to them or each class of them;

- (f) the restrictions, if any, to be placed on the transfer of member loans or of its shares or any class thereof of the amalgamated co-operative;
- (g) the authorized loan capital of the amalgamated co-operative;
- (h) the amount of membership fee and the classes of membership, if any, setting forth the designation of and the terms and conditions attaching to each class of membership in the amalgamated co-operative;
- (i) the names in full and the residence address, giving the street and number, if any, of each person who is to be a first director of the amalgamated co-operative;
- (j) the time and manner of election of the subsequent directors of the amalgamated co-operative;
- (k) whether or not the by-laws of the amalgamated co-operative are to be those of one of the amalgamating co-operatives and, if not, a copy of the proposed by-laws of the amalgamated co-operative;
- (l) the manner in which the issued shares of each of the amalgamating co-operatives are to be converted into issued shares of the amalgamated co-operative;
- (m) the manner of conversion of the loan and share capital, as the case may be, of the amalgamating co-operatives into the loan and share capital, as the case may be, of the amalgamated co-operative;
- (n) such other details as may be necessary to perfect the amalgamation and to provide for the subsequent management and operation of the amalgamated co-operative.

(3) Where shares of one of the amalgamating co-operatives are held by or on behalf of another of the amalgamating co-operatives, the amalgamation agreement shall provide for the cancellation of such shares upon the amalgamation becoming effective without any repayment of capital in respect thereof, and no provision shall be made in the agreement for the conversion of such shares into shares of the amalgamated co-operative.

Shares of
amalgamat-
ing co-
operative
held by
another

Treatment of
patronage
loans

(4) The member or patronage loans, if any, of the amalgamating co-operatives shall represent liabilities of the amalgamated co-operative.

Approval of
agreement

(5) An amalgamation agreement is not effective until approved by a special resolution of each of the amalgamating co-operatives.

Approval by
preference
shareholders

(6) Where the carrying out of the amalgamation agreement would result in the deletion or variation of a preference, right, condition, restriction, limitation or prohibition attaching to a class of issued preference shares of any of the amalgamating co-operatives or in the creation of preference shares of the amalgamated co-operative ranking in any respect in priority to, or on a parity with, any existing class of preference shares of any of the amalgamating co-operatives, the agreement is not effective until it is approved in the manner provided by subsection 151 (4) in addition to the approval required by subsection (5). 1973, c. 101, s. 156.

Filing of
articles of
amalgama-
tion

157.—(1) For the purpose of bringing an amalgamation into effect, the amalgamating co-operatives shall, within six months after the amalgamation agreement has become effective, deliver to the Minister articles of amalgamation in duplicate executed under the seal of each of the amalgamating co-operatives and signed by two officers, or by one director and one officer, of each of the amalgamating co-operatives and verified by affidavit of one of the officers or directors signing the articles of amalgamation for each amalgamating co-operative, setting out,

- (a) the names of each of the amalgamating co-operatives;
- (b) a certified copy of the amalgamation agreement;
- (c) that the agreement has been duly approved as required by section 156; and
- (d) the dates on which the amalgamation agreement was approved by the members of each of the amalgamating co-operatives.

Evidence of
solvency

(2) The articles of amalgamation shall be accompanied by evidence that establishes to the satisfaction of the Minister that each of the amalgamating co-operatives is not insolvent and, if required by the Minister, a *pro forma* balance sheet after giving effect to the proposed amalgamation.

Issuance of
certificate of
amalgama-
tion

(3) If the articles of amalgamation conform to law, the Minister shall, when all prescribed fees have been paid,

(a) endorse on each duplicate of the articles the word "Filed" and the day, month and year of the filing thereof;

(b) file one of the duplicates in his office; and

(c) issue to the amalgamated co-operative or its agent a certificate of amalgamation to which he shall affix the other duplicate.

(4) Upon the date set forth in the certificate of amalgamation, Effect of certificate

(a) the amalgamation becomes effective and the amalgamating co-operatives are amalgamated and continue as one co-operative under the terms and conditions prescribed in the amalgamation agreement;

(b) the amalgamated co-operative possesses all the property, rights, privileges and franchises and is subject to all liabilities, contracts, disabilities and debts of each of the amalgamating co-operatives;

(c) the issued capital of the amalgamated co-operative is, subject to the decrease provided for in subsection 156 (3), equal to the aggregate of the issued capital of each of the amalgamating co-operatives immediately before the amalgamation becomes effective; and

(d) the articles of incorporation of each of the amalgamating co-operatives are amended to the extent necessary to give effect to the terms and conditions of the amalgamation agreement. 1973, c. 101, s. 157.

158.—(1) A corporation incorporated under the laws of any jurisdiction other than Ontario may, if it appears to the Minister to be thereunto authorized by the laws of the jurisdiction in which it was incorporated, apply to the Minister for a certificate continuing it as if it had been incorporated under this Act, and the Minister may issue the certificate of continuation on application supported by such material as appears satisfactory, and the certificate may be issued on such terms and subject to such limitations and conditions and contain such provisions as appear to the Minister to be fit and proper. Certificate of continuation

(2) Upon the date set forth in a certificate of continuation issued under subsection (1), this Act applies to the corporation to the same extent as if it had been incorporated under this Act. 1973, c. 101, s. 158. Effect of certificate

Transfer of
Ontario
co-operative

159.—(1) A co-operative may, if authorized by a special resolution, by the Minister and by the laws of any other jurisdiction, apply to the proper officer of that other jurisdiction for an instrument of continuation continuing the co-operative as if it had been incorporated under the laws of that other jurisdiction.

Notice

(2) This Act ceases to apply to the co-operative on and after the date on which the co-operative is continued under the laws of the other jurisdiction and the co-operative shall file with the Minister a copy of the instrument of continuation certified by the proper officer of the other jurisdiction authorized to certify such documents.

Application

(3) This section applies only in respect of a jurisdiction that has legislation in force that permits corporations incorporated under its laws to apply for an instrument of continuation under the laws of Ontario. 1973, c. 101, s. 159.

Rights of
creditors
preserved

160. All rights of creditors against the property, rights and assets of a co-operative amalgamated under section 156 or continued under section 158 and all liens upon its property, rights and assets are unimpaired by such amalgamation or continuation, and all debts, contracts, liabilities and duties of the co-operative thenceforth attach to the amalgamated or continued co-operative and may be enforced against it. 1973, c. 101, s. 160.

DISSOLUTION

Winding
up
R.S.O. 1980,
c. 54

161. Sections 192 to 237, except clause 222 (1) (a), of the *Business Corporations Act* apply, with necessary modifications, to co-operatives, and for the purpose a reference therein to a corporation shall be deemed to be a reference to a co-operative and a reference therein to a shareholder shall be deemed to be a reference to a member. 1973, c. 101, s. 161.

Distribution
of property

162.—(1) On any distribution of the property of a co-operative, member loans and patronage returns that are lent to the co-operative rank after the ordinary debts. 1973, c. 101, s. 162 (1).

Distribution
of property
upon
dissolution

(2) The articles or by-laws of a co-operative may provide that, upon the dissolution of the co-operative and after the payment of all debts and liabilities, including any declared and unpaid dividends and the amount paid up on any outstanding shares, which amount shall not exceed the par value thereof, the remaining property of the co-operative or any part thereof may be distributed or disposed of,

(a) equally among the members irrespective of the number of shares or amount of loans, if any, held or made by a member ;

(b) among the members at the time of dissolution on the basis of patronage returns accrued to such members during the five fiscal years immediately preceding the dissolution or after the date of incorporation ; or

(c) to charitable organizations. 1973, c. 101, s. 162 (2) ; 1978, c. 86, s. 24 (1).

(3) In the absence of any provisions in the articles or ^{Idem} by-laws permitted by subsection (2), upon the dissolution of the co-operative, the whole of its remaining property shall be distributed equally among the members irrespective of the number of shares or amount of loans, if any, held or made by a member. 1978, c. 86, s. 24 (2).

163. A co-operative may be dissolved upon the authoriza- ^{Voluntary}
tion of, ^{dissolution}

(a) a majority of the votes cast at a general meeting of the members of the co-operative duly called for the purpose or by such other proportion of the votes cast as the articles provide, but such other proportion shall not be less than 50 per cent of all the members entitled to vote at the meeting ;

(b) the consent in writing of all the members entitled to vote at such meeting ; or

(c) all its incorporators or their personal representatives at any time within two years after the date set forth in its certificate of incorporation where the co-operative has not commenced business and has not issued any shares or received any membership fees or loans. 1973, c. 101, s. 163.

164.—(1) For the purpose of bringing the dissolution ^{Articles of}
authorized under clause 163 (a) or (b) into effect, the co-operative ^{dissolution}
shall deliver to the Minister articles of dissolution in duplicate, ^{where}
executed under the seal of the co-operative and signed by two ^{co-operative}
officers or by one director and one officer of the co-operative and ^{active}
verified by affidavit of one of the officers or directors signing the
articles of dissolution, setting out,

(a) the name of the co-operative;

(b) that its dissolution has been duly authorized under clause 163 (a) or (b);

- (c) that it has no debts, obligations or liabilities or its debts, obligations or liabilities have been duly provided for in accordance with subsection (3) or its creditors or other persons having interests in its debts, obligations or liabilities consent to its dissolution;
- (d) that after satisfying the interests of creditors in all its debts, obligations and liabilities, if any, it has no property to distribute among its members or that it has distributed its remaining property in accordance with section 162 or in accordance with subsection (4) where applicable;
- (e) that there are no proceedings pending in any court against it; and
- (f) that it has given notice of its intention to dissolve by publication once in *The Ontario Gazette* and once in a newspaper having general circulation in the place where it has its principal place of business in Ontario or, if it does not have a place of business in Ontario, where it has its head office. 1973, c. 101, s. 164 (1); 1978, c. 86, s. 25.

Articles of
dissolution
where co-
operative
never active

(2) For the purpose of bringing a dissolution authorized under clause 163 (c) into effect, the co-operative shall deliver to the Minister articles of dissolution in duplicate, signed by all its incorporators or their personal representatives and verified by affidavit of one of them setting out,

- (a) the name of the co-operative;
- (b) the date set forth in its certificate of incorporation;
- (c) that the co-operative has not commenced business;
- (d) that none of its shares has been issued;
- (e) that no membership fees or loans have been received;
- (f) that dissolution has been duly authorized under clause 163 (c);
- (g) that it has no debts, obligations or liabilities;
- (h) that after satisfying the interests of creditors in all its debts, obligations and liabilities, if any, it has no property to distribute or that it has distributed its remaining property to the persons entitled thereto;

(i) that there are no proceedings pending in any court against it; and

(j) that it has given notice of its intention to dissolve by publication once in *The Ontario Gazette* and once in a newspaper having general circulation in the place where it has its head office.

(3) Where a co-operative authorizes its dissolution and a creditor is unknown or his whereabouts is unknown, the co-operative may, by agreement with the Public Trustee, pay to the Public Trustee an amount equal to the amount of the debt due to the creditor to be held in trust for the creditor, and such payment shall be deemed to be due provision for the debt for the purposes of clause (1) (c). Where creditor unknown

(4) Where a co-operative authorizes its dissolution and a member is unknown or his whereabouts is unknown, it may, by agreement with the Public Trustee, deliver or convey his share of the property to the Public Trustee to be held in trust for him, and such delivery or conveyance shall be deemed to be a distribution to that member for the purposes of the dissolution. Where member or shareholder unknown

(5) If the property delivered or conveyed to the Public Trustee under subsection (4) is in a form other than cash, the Public Trustee may at any time, and within ten years after such delivery or conveyance shall, convert it into cash. Power to consent

(6) If the amount paid under subsection (3) or the property delivered or conveyed under subsection (4) or its equivalent in cash, as the case may be, is claimed by the person beneficially entitled thereto within ten years after it was so delivered, conveyed or paid, it shall be delivered, conveyed or paid to him, but, if not so claimed, it vests in the Public Trustee for the use of Ontario, and, if the person beneficially entitled thereto at any time thereafter establishes his right thereto to the satisfaction of the Lieutenant Governor in Council, an amount equal to the amount so vested in the Public Trustee shall be paid to him. 1973, c. 101, s. 164 (2-6). Payment to person entitled

165.—(1) If the articles of dissolution conform to law, and the Minister shall, when all prescribed fees have been paid and all taxes payable by the co-operative to the Treasurer of Ontario have been paid, Certificate of dissolution

(a) endorse on each duplicate of the articles of dissolution the word "Filed" and the day, month and year of the filing thereof;

(b) file one of the duplicates in his office; and

(c) issue to the co-operative or its agent a certificate of dissolution to which he shall affix the other duplicate.

Effect of
certificate

(2) The dissolution becomes effective and the co-operative is dissolved upon the date set forth in the certificate of dissolution. 1973, c. 101, s. 165.

Cancellation
of certificate,
etc., by
Minister

166. Where sufficient cause is shown to the Minister, he may, after he has given the co-operative an opportunity to be heard, by order, upon such terms and conditions as he thinks fit, cancel a certificate of incorporation or any certificate issued by him under this Act, and,

(a) in the case of the cancellation of a certificate of incorporation, the co-operative is dissolved on the date fixed in the order;

(b) in the case of the cancellation of any other certificate, the matter that became effective upon the issuance of the certificate ceases to be in effect from the date fixed in the order. 1973, c. 101, s. 166.

Notice of
dissolution

167.—(1) Where a co-operative is in default in filing an annual return or financial statement for a period of two years, the Minister may give notice, by registered mail to the co-operative or by publication once in *The Ontario Gazette*, that an order dissolving the co-operative will be issued unless the co-operative files the annual return or financial statement within one year after the giving of the notice.

Dissolution
for default

(2) Upon default in compliance with the notice given under subsection (1), the Minister may by order cancel the certificate of incorporation and, subject to subsection (3), the co-operative is dissolved on the date fixed in the order.

Revival

(3) Where a co-operative is dissolved under subsection (2), the Minister, on the application of any interested person immediately before the dissolution, made within two years after the date of dissolution, may in his discretion by order, on such terms and conditions as he sees fit to impose, revive the co-operative, and thereupon the co-operative, subject to the terms and conditions of the order and to any rights acquired by any person after its dissolution, is restored to its legal position, including all its property, rights, privileges and franchises, and is subject to all its liabilities, contracts, disabilities and debts, as at the date of its dissolution, in the same manner and to the same extent as if it had not been dissolved. 1973, c. 101, s. 167.

168.—(1) Notwithstanding the dissolution of a co-operative Suits after dissolution
under section 165, 166 or 167,

(a) any action, suit or other proceeding commenced by or against the co-operative before its dissolution may be proceeded with as if the co-operative had not been dissolved;

(b) any action, suit or other proceeding may be brought against the co-operative within two years after its dissolution as if the co-operative had not been dissolved; and

(c) any property that would have been available to satisfy any judgment, order or other decision if the co-operative had not been dissolved remains available for such purpose.

(2) For the purposes of this section, the service of any Service after dissolution
process on a co-operative after its dissolution shall be deemed to be sufficiently made if it is made upon any person last shown on the records of the Ministry as being a director or officer of the co-operative before the dissolution. 1973, c. 101, s. 168.

169.—(1) Notwithstanding the dissolution of a co-operative, Liability of members to creditors
each of the members among whom its property has been distributed remains liable to its creditors to the extent of the amount received by him upon the distribution, and an action in a court of competent jurisdiction to enforce such liability may be brought against him within two years from the date of the dissolution and not thereafter.

(2) Where there are numerous members, the court referred to in subsection (1) may permit an action to be brought against one or more members as representatives of the class and, if the plaintiff establishes his claim as creditor, may make an order of reference and add as parties in the referee's office all such members as are found, and the referee shall determine the amount that each should contribute towards the plaintiff's claim and may direct payment of the sums so determined. 1973, c. 101, s. 169. Action against one member as representing class

170. Subject to section 168, any real or personal property Forfeiture of undisposed of property
of a co-operative that has not been disposed of at the date of its dissolution is forfeit to the Crown. 1973, c. 101, s. 170.

171. At the same time as a co-operative is required to Annual return
file its financial statements with the Minister under subsection 141 (2), the co-operative shall also file an annual return in such form as the regulations prescribe. 1973, c. 101, s. 171.

GENERAL

Notice to
directors and
members

172.—(1) Subject to the articles or by-laws of a co-operative,

- (a) a notice or other document required to be given or sent by a co-operative to a member or director may be delivered personally or sent by prepaid mail addressed to the member or director at his latest address as shown on the records of the co-operative; and
- (b) a notice or other document sent by mail by a co-operative to a member or director shall be deemed to be given or sent at the time when it would be delivered in the ordinary course of mail.

Undelivered
mail

(2) Where notices or other documents required by this Act, the articles or by-laws to be given or sent by a co-operative to a member have been mailed to the member at his latest address as shown on the records of the co-operative and where, on three consecutive occasions, notices or other documents have been returned by the Post Office to the co-operative, the co-operative is not required to mail to the member any further notices or other documents until such time as the co-operative receives written notice from the member requesting that notices and other documents be sent to the member at a specified address.

Notice to
co-operative

(3) Except where otherwise provided in this Act, a notice or document required to be given or sent to a co-operative may be sent to the co-operative by prepaid mail at its head office as shown on the records of the Ministry and shall be deemed to be given or sent at the time when it would be delivered in the ordinary course of mail.

Waiver of
notice and
abridgement
of time

(4) Where a notice is required by this Act to be given to any person, the giving of the notice may be waived or the time for the notice may be waived or abridged with the consent in writing of such person, whether before or after the time prescribed. 1973, c. 101, s. 172.

Offence,
false
statement

173.—(1) Every person who makes or assists in making a statement in any document required by or for the purposes of this Act or the regulations that, at the time and in the light of the circumstances under which it was made, is false or misleading in respect of any material fact or that omits to state any material fact the omission of which makes the statement false or misleading is guilty of an offence and on conviction is liable to a fine of not more than \$2,000 or to imprisonment for a term of not more than one year, or to both.

(2) No person is guilty of an offence under subsection (1) if ^{Defence} he did not know that the statement was false or misleading and in the exercise of reasonable diligence could not have known that the statement was false or misleading. 1973, c. 101, s. 173.

174.—(1) Every person who fails to file with the Minister ^{Offence, failure to file} any document required by this Act to be filed with him is guilty of an offence and on conviction is liable to a fine of not more than \$2,000 or, if such person is a corporation, to a fine of not more than \$20,000.

(2) Where a corporation is guilty of an offence under ^{Idem} subsection (1), every director or officer thereof who authorized, permitted or acquiesced in such offence is also guilty of an offence and on conviction is liable to a fine of not more than \$2,000. 1973, c. 101, s. 174.

175. No proceeding under section 173 or 174 shall be ^{Consent} commenced except with the consent or under the direction of the Minister. 1973, c. 101, s. 175.

176.—(1) Except where otherwise provided, every person ^{Offence, general} who commits an act contrary to or fails or neglects to comply with any provision of this Act or the regulations is guilty of an offence and on conviction is liable to a fine of not more than \$1,000 or, if such person is a corporation, to a fine of not more than \$10,000.

(2) Where a corporation is guilty of an offence under subsection ^{Idem} (1), every director or officer thereof who authorized, permitted or acquiesced in the offence is also guilty of an offence and on conviction is liable to a fine of not more than \$1,000. 1973, c. 101, s. 176.

177.—(1) No proceeding under section 173 or 174 or under ^{Limitation} section 176 for a contravention of section 118 shall be commenced more than one year after the facts upon which the proceedings are based first came to the knowledge of the Minister as certified by him.

(2) Subject to subsection (1), no proceeding for an offence ^{Idem} under this Act or the regulations shall be commenced more than one year after the time when the subject-matter of the offence arose. 1973, c. 101, s. 177.

178. Where a co-operative or a director, officer or employee ^{Order for compliance} of a co-operative does not comply with any provision of this Act or the articles or the by-laws of the co-operative, the Minister or a member or a creditor of the co-operative, not-

withstanding the imposition of any penalty in respect of such non-compliance and in addition to any other rights he may have, may apply to the court for an order directing the co-operative, director, officer or employee, as the case may be, to comply with such provision, and upon such an application the court may make such order or such other order as the court thinks fit. 1973, c. 101, s. 178.

Proof by
affidavit

179.—(1) The Minister may require any fact relevant to the performance of his duties under this Act or the regulations to be verified by affidavit or otherwise.

Oaths at
hearings

(2) For the purpose of holding a hearing under this Act, the Minister may administer oaths to witnesses and require them to give evidence under oath. 1973, c. 101, s. 179.

Publication
of notices
in *The
Ontario
Gazette*

180. The Minister shall cause notice to be published forthwith in *The Ontario Gazette*,

(a) of the issue of every certificate under section 6, 9, 154, 155, 157, 158 or 165;

(b) of the issue of every order under section 118, 166 or 167;

(c) of the filing of a certified copy of an order under subsection 206 (6) or subsection 219 (2) of the *Business Corporations Act*;

(d) of the filing of a notice by a liquidator under subsection 206 (2) of the *Business Corporations Act*. 1973, c. 101, s. 180.

R.S.O. 1980,
c. 54

Searches

181.—(1) Upon payment of the prescribed fee, any person is entitled to examine any document filed with or issued by the Minister under this Act, and to make extracts therefrom.

Certifications
by Minister

(2) Upon payment of the prescribed fee, the Minister shall furnish any person with a certificate as to whether or not a document has been filed with or issued by him under this Act or any predecessor thereof or with a certified copy of any such document. 1973, c. 101, s. 181.

Execution of
certificates
of Minister

182.—(1) Where this Act requires or authorizes the Minister to issue a certificate or certify any fact, the certificate shall be issued under the seal of the Minister and shall be signed by him or by such officer of the Ministry as is designated by the regulations.

Certificates
as evidence

(2) Any certificate purporting to be under the seal of the Minister and signed by a person authorized by or under

subsection (1), or any certified copy, is receivable in evidence in any action, prosecution or other proceeding as *prima facie* proof of the facts so certified without proof of the seal or of the signature or the official position of the person appearing to have signed the certificate. 1973, c. 101, s. 182.

183.—(1) Where the Minister refuses to file any articles or any other document required by this Act to be filed by him before it becomes effective, he shall give written notice to the person who delivered the articles or other document of his refusal, specifying the reasons therefor. Notice of refusal to file

(2) Where, within six months after the delivery to the Minister of articles or other document referred to in subsection (1), the Minister has not filed or refused to file such articles or other document, he shall be deemed for the purposes of section 184 to have refused to file it. 1973, c. 101, s. 183. Failure to act deemed refusal

184.—(1) Any person who feels aggrieved by a decision of the Minister to, Appeal from Minister

(a) refuse to file articles or any other document or to issue any certificate required by this Act to be filed or issued;

(b) issue or refuse to issue a certificate of amendment under subsection 9 (2), (3) or (4);

(c) issue a certificate of amendment under section 143, 144 or 152;

(d) issue an order under section 166,

may appeal the decision to the Divisional Court.

(2) The Minister shall certify to the Registrar of the Supreme Court, Certificate of Minister

(a) the decision of the Minister, together with a statement of the reasons therefor;

(b) the record of any hearing; and

(c) all written submissions to the Minister or other material that is relevant to the appeal.

(3) The Minister is entitled to be heard, by counsel or otherwise, upon the argument of an appeal under this section. Representation

(4) Where an appeal is taken under this section, the Divisional Court may by its order direct the Minister to make such Order of court

decision or to do such other act as the Minister is authorized and empowered to do under this Act and as the court thinks proper, having regard to the material and submissions before it and to this Act, and the Minister shall make such decision or do such act accordingly.

Minister
may make
further
decision

(5) Notwithstanding an order of the Divisional Court, the Minister has power to make any further decision upon new material or where there is a material change in the circumstances, and every such decision is subject to this section. 1973, c. 101, s. 184.

Appeal
from court

185. An appeal lies to the Court of Appeal from any order made by the court under this Act. 1973, c. 101, s. 185.

Regulations

186. The Lieutenant Governor in Council may make regulations respecting any matter that he considers necessary relating to the incorporation, conduct and dissolution of co-operatives including, without limiting the generality of the foregoing, regulations,

- (a) respecting names, objects, authorized capital, the form and contents of offering statements, membership, the designations, preferences, rights, conditions, restrictions, limitations or prohibitions attaching to shares or classes of shares or any other matter pertaining to articles or the filing thereof;
- (b) requiring the payment of fees for any matter that the Minister is required or authorized to do under this Act, and prescribing the amounts thereof;
- (c) prescribing any matter required by this Act to be prescribed by the regulations;
- (d) designating officers of the Ministry for the purposes of paragraph 4 of subsection 1 (1) and section 182. 1973, c. 101, s. 186.

CHAPTER 92

Co-operative Loans Act

1. In this Act,

Interpre-
tation

- (a) "Board" means The Co-operative Loans Board of Ontario;
- (b) "co-operative association" means a co-operative corporation of producers of farm products to which the *Co-operative Corporations Act* applies and which was incorporated for the purpose of grading, cleaning, packing, storing, drying, processing or marketing farm products; ^{R.S.O. 1980, c. 91}
- (c) "farm products" includes animals, meats, eggs, poultry, wool, dairy products, grains, seeds, fruit, fruit products, vegetables, vegetable products, maple products, honey, tobacco and such articles of food or drink manufactured or derived in whole or in part from any such product and such other natural products of agriculture as are designated by the regulations;
- (d) "Minister" means the Minister of Agriculture and Food;
- (e) "regulations" means the regulations made under this Act;
- (f) "Treasurer" means the Treasurer of Ontario and Minister of Economics. R.S.O. 1970, c. 86, s. 1; 1972, c. 3, s. 17 (1); 1973, c. 104, s. 1 (2).

2.—(1) The Co-operative Loans Board of Ontario, a ^{Board continued} corporation without share capital that was constituted on behalf of Her Majesty in right of Ontario by *The Co-operative Loans Act, 1956*, c. 11, is continued.

(2) The Board shall be composed of such three persons in ^{Composition} the public service of Ontario as the Lieutenant Governor in Council appoints.

Chairman.
vice-
chairman

(3) The Lieutenant Governor in Council may designate one of the members as chairman and one as vice-chairman of the Board.

Vacancies

(4) The Lieutenant Governor in Council may from time to time fill any vacancy in the membership of the Board.

Quorum

(5) A majority of the members of the Board constitutes a quorum.

Staff

(6) The staff of the Board may consist of a secretary and such other officers and servants as are appointed from time to time under the *Public Service Act* for the purposes of the Board.

R.S.O. 1980,
c. 418

Assistance

(7) In the administration of its affairs the Board may be assisted by such persons in the public service of Ontario as the Treasurer assigns for the purpose.

By-laws

(8) Subject to the approval of the Lieutenant Governor in Council, the Board may make by-laws for the conduct of its affairs.

Annual
report

(9) The Board shall make a report annually to the Minister of all loans made during the previous year and of such other matters relating to the work of the Board as the Minister requires. R.S.O. 1970, c. 86, s. 2 (1-9).

Idem

(10) The Minister shall submit the report to the Lieutenant Governor in Council and shall then lay the report before the Assembly if it is in session or, if not, at the next ensuing session. 1972, c. 1, s. 6.

Conditions
of loan

3. No loan shall be made to a co-operative association unless an agreement is entered into by the co-operative association and the Minister in the form prescribed in the regulations providing such limitations and conditions as will ensure that the control of the management and operation of the co-operative association will remain in the producers until the loan is repaid. R.S.O. 1970, c. 86, s. 3.

Power to
make loans

4.—(1) The Lieutenant Governor in Council may make a loan to any co-operative association to enable it to carry out its objects to an amount not exceeding 50 per cent of the value of the real property of the co-operative association on which the loan is to be made, but in no case shall a loan be made that would result in the co-operative association's total indebtedness under this Act exceeding \$100,000.

(2) A loan shall be made to a co-operative association only Application on its application to the Board in the form prescribed in the regulations. R.S.O. 1970, c. 86, s. 4.

5.—(1) Every loan shall be secured by a first mortgage on Security for loan the real property of the co-operative association made in favour of the Treasurer in accordance with the *Short Forms of Mortgages Act*. R.S.O. 1980, c. 474

(2) Every mortgage may contain such covenants, provisos Rights and powers of Treasurer and conditions as the Treasurer considers proper, and the Treasurer has and may exercise all the rights, powers and remedies with respect to any mortgage made under this Act that a mortgagee has and may exercise under the laws of Ontario.

(3) All notices, mortgages, discharges and other documents that may be made under this Act, except an agreement made with the Minister, shall be prepared by a person designated by the Treasurer. Preparation of documents

(4) In addition to the security required by subsection (1), Additional security every loan may be further secured at the time the loan is made by a chattel mortgage to the Treasurer on such chattels of the co-operative association as the Board determines. R.S.O. 1970, c. 86, s. 5.

6.—(1) Where a co-operative association sells its interest in lands that are subject to a mortgage under this Act to any person, all moneys owing respecting such mortgage both as to principal and interest to the date of the sale thereupon become due and payable unless the Minister approves the assumption of the mortgage by the purchaser, and such approval may be on such terms and conditions as the Minister determines. Assumption of mortgage on sale

(2) Where the assumption of a mortgage is approved under subsection (1), the Treasurer may make such releases and discharges as he considers proper respecting the liabilities of the co-operative association that sold its interest in the lands. Releases re original mortgagor

(3) An approval of the assumption of a mortgage under subsection (1) shall be deemed not to be the making of a loan to the purchaser for the purposes of section 4. R.S.O. 1970, c. 86, s. 6. Mortgage assumed may increase total beyond maximum

7.—(1) The rate of interest payable on a loan under this Act shall be determined by the Lieutenant Governor in Council at the time the loan is made. Rate of interest

Repayment
of loan

(2) Repayment of a loan shall be commenced not later than one year from the date of the making of the loan and the terms of repayment shall provide that at least 50 per cent of the principal will be repaid within ten years and that the remaining 50 per cent will be repaid within twenty years from such date, and every agreement shall contain provisions to ensure such repayment.

Acceleration

(3) Subject to subsection (2), any part of the principal outstanding may be repaid at any time at the option of the co-operative association. R.S.O. 1970, c. 86, s. 7.

Returns

8. Every co-operative association that has a loan under this Act shall make such annual or other reports, returns and statements to the Board as the regulations prescribe. R.S.O. 1970, c. 86, s. 8.

Notice of
meeting

9. Every co-operative association that has a loan under this Act shall by notice, given to the Board in the same manner as notice of meetings is given to its members or shareholders, inform the Board of the time and place of every meeting of its members or shareholders and the Board or its representative may attend any such meeting. R.S.O. 1970, c. 86, s. 9.

Board may
require
meeting

10. If required by the Board, the board of directors of a co-operative association that has a loan under this Act shall call a meeting of its directors or members or shareholders at such time and place as the Board directs for the purpose of inquiring into its affairs. R.S.O. 1970, c. 86, s. 10.

Inspection of
books, etc.

11.—(1) The Treasurer may appoint a person to inspect the books, accounts and property and to inquire into the affairs of any co-operative association that has a loan under this Act and a person so appointed has for the purpose of the inspection and inquiry the powers of a commission under Part II of the *Public Inquiries Act*, which Part applies to the inspection or inquiry as if it were an inquiry under that Act. 1971, c. 50, s. 24.

R.S.O. 1980,
c. 411

Idem

(2) The Board may inspect the property of any co-operative association that has a loan under this Act and may order such alterations or repairs to be made to such property for the purpose of better securing the loan. R.S.O. 1970, c. 86, s. 11 (2).

Extension
of Act

12. The Lieutenant Governor in Council may extend the application of this Act to any corporation for the purpose of enabling it to provide cold storage facilities for the producers of farm products if more than 50 per cent of the issued shares of its capital stock is held by producers of farm products, and

in any such case the corporation shall be deemed to be a co-operative association for the purposes of this Act. R.S.O. 1970, c. 86, s. 12.

13. Where a co-operative association that has erected a building or other structure on lands owned by a railway company and entered into a lease of the lands for a term of at least twenty years applies to the Board for, ^{Extension of Act}

(a) a loan, and the amount of the loan applied for is more than 50 per cent of the value of the real property of the co-operative association; or

(b) a guarantee of loan,

the Lieutenant Governor in Council may extend the application of this Act to the co-operative association on such terms as he considers proper, and in any such case the lease shall be deemed to be real property for the purposes of this Act. R.S.O. 1970, c. 86, s. 13.

14. The Lieutenant Governor in Council may extend the application of this Act to The Ontario Flue-Cured Tobacco Growers' Marketing Board, established under the *Farm Products Marketing Act*, for the purpose of enabling it to carry out the purposes of the plan under which it was established, and, notwithstanding section 5, the security for any loan to, or guarantee of any bank loan on behalf of, The Ontario Flue-Cured Tobacco Growers' Marketing Board may be other than by a first mortgage on the real property of The Ontario Flue-Cured Tobacco Growers' Marketing Board. R.S.O. 1970, c. 86, s. 14. ^{Idem R.S.O. 1980, c. 158}

15.—(1) The Lieutenant Governor in Council may upon such terms as he considers proper agree to guarantee and may guarantee the payment of any loan and the interest thereon made to a co-operative association, and the form and manner of the guarantee shall be such as the Lieutenant Governor in Council approves, and the guarantee shall be signed by the Treasurer or such other officer or officers as are designated by the Lieutenant Governor in Council, and, upon being so signed, the Province of Ontario is liable for the payment of the loan and interest thereon guaranteed according to the terms of the guarantee, and the Lieutenant Governor in Council may make arrangements for supplying the money necessary to fulfill the requirements of any guarantee and to advance the amount necessary for that purpose out of the public funds of the Province of Ontario and any guarantee so signed is conclusive evidence that the terms of this section have been complied with. ^{Guarantee of loans}

Application
of ss. 3, 5,
8-11

(2) Sections 3, 5, 8, 9, 10 and 11 relating to loans apply with necessary modifications to guarantees made under this section. R.S.O. 1970, c. 86, s. 15.

Existing
loans and
guarantees

16. Every subsisting loan and guarantee of bank loan made under a predecessor of this Act shall be deemed to have been made under this Act. R.S.O. 1970, c. 86, s. 16.

Regulations

17. The Lieutenant Governor in Council may make regulations,

- (a) designating any article of food or drink manufactured or derived in whole or in part from a farm product and any natural product of agriculture to be a farm product;
- (b) prescribing the annual or other reports, returns and statements that co-operative associations that have loans under this Act shall make to the Board;
- (c) prescribing forms and providing for their use;
- (d) respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act. R.S.O. 1970, c. 86, s. 17.

CHAPTER 93

Coroners Act

1. In this Act,

Interpre-
tation

(a) "Chief Coroner" means the Chief Coroner for Ontario;

(b) "mine" means a mine as defined in the *Occupational Health and Safety Act*; R.S.O. 1980,
c. 321(c) "mining plant" means a mining plant as defined in the *Occupational Health and Safety Act*;(d) "Minister" means the Solicitor General. 1972, c. 98,
s. 1; 1978, c. 38, s. 1.

2.—(1) In so far as it is within the jurisdiction of the Legislature, the common law as it relates to the functions, powers and duties of coroners within Ontario is repealed. Repeal of
common law
functions

(2) The powers conferred on a coroner to conduct an inquest shall not be construed as creating a criminal court of record. 1972, c. 98, s. 2. Inquest not
criminal
court of
record

3.—(1) The Lieutenant Governor in Council may appoint one or more legally qualified medical practitioners to be coroners for Ontario who, subject to subsections (2), (3) and (4), shall hold office during pleasure. 1972, c. 98, s. 3 (1); 1974, c. 103, s. 1 (1). Appointment
of coroners

(2) A coroner ceases to hold office,

Tenure

(a) upon attaining the age of seventy years; or

(b) upon the revocation, suspension or cancellation of his licence for the practice of medicine issued under the *Health Disciplines Act*. 1972, c. 98, s. 3 (2); 1978, c. 38, s. 2 (1). R.S.O. 1980,
c. 196

(3) The College of Physicians and Surgeons of Ontario shall forthwith notify the Chief Coroner where the licence of a coroner for the practice of medicine is revoked, suspended or cancelled. 1978, c. 38, s. 2 (2). Chief
Coroner
to be
notified

(4) A coroner may resign his office in writing.

Resignation

Residential
areas

(5) The Lieutenant Governor in Council may by regulation establish areas of Ontario and the appointment and continuation in office of a coroner is subject to the condition that he is ordinarily resident in the area named in the appointment.

Appoint-
ments to
be filed

(6) A certified copy of the order appointing a coroner shall be sent by the Minister to the clerk of the peace of the county or district in which the coroner is to act, and shall be filed by him in his office.

Appoint-
ments under
R.S.O. 1970,
c. 87,
continued

(7) All persons holding appointments as coroners under *The Coroners Act*, being chapter 87 of the Revised Statutes of Ontario, 1970, shall be deemed to have been appointed in accordance with the provisions of this Act. 1972, c. 98, s. 3 (4-7).

Chief
Coroner
and duties

4.—(1) The Lieutenant Governor in Council may appoint a coroner to be Chief Coroner for Ontario who shall,

- (a) administer this Act and the regulations;
- (b) supervise, direct and control all coroners in Ontario in the performance of their duties;
- (c) conduct programs for the instruction of coroners in their duties;
- (d) bring the findings and recommendations of coroners' juries to the attention of appropriate persons, agencies and ministries of government;
- (e) prepare, publish and distribute a code of ethics for the guidance of coroners;
- (f) perform such other duties as are assigned to him by or under this or any other Act or by the regulations or by the Lieutenant Governor in Council. 1972, c. 98, s. 4.

Deputy Chief
Coroner

(2) The Lieutenant Governor in Council may appoint a coroner to be Deputy Chief Coroner for Ontario who shall act as and have all the powers and authority of the Chief Coroner during the absence of the Chief Coroner or his inability to act. 1974, c. 103, s. 2.

Regional
coroners

5.—(1) The Lieutenant Governor in Council may appoint a coroner as a regional coroner for such region of Ontario as is described in the appointment.

Duties

(2) A regional coroner shall assist the Chief Coroner in the performance of his duties in the region and shall perform such

other duties as are assigned to him by the Chief Coroner.
1972, c. 98, s. 5.

6.—(1) There shall be a Coroners' Council composed of the Chief Judge of the County and District Courts and not more than four other persons appointed by the Lieutenant Governor in Council, of whom at least one shall be a legally qualified medical practitioner.

(2) Such officers and employees of the Coroners' Council as are considered necessary shall be appointed under the *Public Service Act*.

(3) A majority of the members of the Coroners' Council constitutes a quorum and is sufficient for the exercise of all the jurisdiction and powers of the Coroners' Council. 1972, c. 98, s. 6.

7.—(1) The functions of the Coroners' Council are,

(a) to review and recommend to the Minister the termination of the appointments of coroners who are not actively performing the duties of coroners;

(b) to receive complaints respecting the misbehaviour or incompetence of or neglect of duty by coroners or the inability of coroners to perform their duties; and

(c) to take such action to investigate complaints as it considers advisable including the review thereof with the coroner where appropriate, and, after giving the coroner an opportunity to be heard, to make such recommendations to the Minister with respect thereto as it sees fit.

(2) For the purposes of an investigation under this section, the Coroners' Council has the powers of a commission under Part II of the *Public Inquiries Act*, which Part applies to the investigation as if it were an inquiry under that Act.

(3) No action or other proceeding for damages shall be instituted against the Coroners' Council or any member or officer thereof or any person acting under its authority for any act done in good faith in the execution or intended execution of its or his duty. 1972, c. 98, s. 7.

8. Subject to subsection 15 (1), a provincial judge in a provincial judicial district may perform any of the duties and exercise any of the powers of a coroner in the district in the absence of a coroner. 1972, c. 98, s. 8.

Police
assistance

9.—(1) The police force having jurisdiction in a municipality shall make available to the coroner the assistance of such police officers as are necessary for the purpose of carrying out his duties. 1974, c. 103, s. 3.

Idem

(2) The Chief Coroner in any case he considers appropriate may request that the criminal investigation branch of the Ontario Provincial Police Force provide assistance to a coroner in an investigation or inquest. 1978, c. 38, s. 3.

Duty to
give
information

10.—(1) Every person who has reason to believe that a deceased person died,

(a) as a result of,

(i) violence,

(ii) misadventure,

(iii) negligence,

(iv) misconduct, or

(v) malpractice;

(b) by unfair means;

(c) during pregnancy or following pregnancy in circumstances that might reasonably be attributable thereto;

(d) suddenly and unexpectedly;

(e) from disease or sickness for which he was not treated by a legally qualified medical practitioner;

(f) from any cause other than disease; or

(g) under such circumstances as may require investigation,

shall immediately notify a coroner or a police officer of the facts and circumstances relating to the death, and where a police officer is notified he shall in turn immediately notify the coroner of such facts and circumstances. 1972, c. 98, s. 9 (1).

Deaths to
be reported

(2) Where a person dies while resident or an in-patient in,

R.S.O. 1980,
c. 64

(a) a charitable institution as defined in the *Charitable Institutions Act*;

- (b) a children's residence as defined in the *Children's Residential Services Act*; R.S.O. 1980,
c. 71
- (c) a children's institution as defined in the *Children's Institutions Act*; R.S.O. 1980,
c. 67
- (d) a home for the aged to which the *Homes for the Aged and Rest Homes Act* applies; R.S.O. 1980,
c. 203
- (e) a home for retarded persons as defined in the *Homes for Retarded Persons Act*; R.S.O. 1980,
c. 201
- (f) a psychiatric facility designated under the *Mental Health Act*; R.S.O. 1980,
c. 262
- (g) an institution under the *Mental Hospitals Act*; R.S.O. 1980,
c. 263
- (h) a nursing home to which the *Nursing Homes Act* applies; R.S.O. 1980,
c. 320
- (i) a children's mental health centre under the *Children's Mental Health Services Act*; R.S.O. 1980,
c. 69
- (j) a public or private hospital to which the person was transferred from a facility, institution or home referred to in clauses (a) to (i),

the person in charge of the hospital, facility, institution, residence or home shall immediately give notice of the death to a coroner, and the coroner shall investigate the circumstances of the death and, if as a result of the investigation he is of the opinion that an inquest ought to be held, he shall issue his warrant and hold an inquest upon the body. 1972, c. 98, s. 9(2); 1978, c. 38, s. 4(1, 2).

- (3) Where a person dies while he is, Inmate off
premises
 - (a) a patient of a psychiatric facility;
 - (b) committed to a correctional institution; or
 - (c) a ward of a training school,

but while not on the premises or in actual custody thereof, subsections (1) and (2) apply as if the person were a resident of an institution named therein.

- (4) Where a person dies while detained by or in the actual custody of a peace officer or while an inmate on the premises of a correctional institution, lock-up or training school, the peace Persons in
custody

officer or officer in charge of the institution, lock-up or training school, as the case may be, shall immediately give notice of the death to a coroner and the coroner shall issue his warrant to hold an inquest upon the body. 1972, c. 98, s. 9 (3, 4).

Notice of death resulting from accident at or in construction project, mining plant or mine

(5) Where a worker dies as a result of an accident occurring in the course of his employment at or in a construction project, mining plant or mine, including a pit or quarry, the person in charge of such project, mining plant or mine shall immediately give notice of the death to a coroner and the coroner shall issue his warrant to hold an inquest upon the body. 1978, c. 38, s. 4 (3).

Certificate as evidence

(6) A statement as to the notification or non-notification of a coroner under this section, purporting to be certified by the coroner is without proof of the appointment or signature of the coroner, receivable in evidence as *prima facie* proof of the facts stated therein for all purposes in any action, proceeding or prosecution. 1972, c. 98, s. 9 (5).

Interference with body

11. No person who has reason to believe that a person died in any of the circumstances mentioned in section 10 shall interfere with or alter the body or its condition in any way until the coroner so directs by his warrant. 1972, c. 98, s. 10; 1974, c. 103, s. 4.

Power of coroner to take charge of wreckage

12.—(1) Where a coroner has issued his warrant to take possession of the body of a person who has met death by violence in a wreck, the coroner may, with the approval of the Chief Coroner, take charge of the wreckage and place one or more police officers in charge of it so as to prevent persons from disturbing it until the jury at the inquest has viewed it, or the coroner has made such examination as he considers necessary. 1972, c. 98, s. 11 (1); 1974, c. 103, s. 5.

View to be expedited

(2) The jury or coroner, as the case may be, shall view the wreckage at the earliest moment possible. 1972, c. 98, s. 11 (2).

Shipment of bodies outside Ontario

13.—(1) Subject to section 14, no person shall accept for shipment or ship or take a dead body from any place in Ontario to any place outside Ontario unless a certificate of a coroner has been obtained certifying that there exists no reason for further examination of the body. 1978, c. 38, s. 5.

Fee for certificate

(2) An applicant for a certificate under subsection (1) shall pay to the coroner such fee as is prescribed therefor.

Embalming, etc., prohibited

(3) No person who has reason to believe that a dead body will be shipped or taken to a place outside Ontario shall embalm or make any alteration to the body or apply any chemical to the

body, internally or externally, until the certificate required by subsection (1) has been issued. 1972, c. 98, s. 12 (2, 3).

14. A coroner may in writing authorize the transportation of a body out of Ontario for *post mortem* examination and, in such case, section 37 of the *Funeral Services Act* does not apply. 1978, c. 38, s. 6.

Transportation of a body out of Ontario
R.S.O. 1980,
c. 180

15.—(1) Where a coroner is informed that there is in his jurisdiction the body of a person and that there is reason to believe that the person died in any of the circumstances mentioned in section 10, he shall issue his warrant to take possession of the body and shall view the body and make such further investigation as is required to enable him to determine whether or not an inquest is necessary.

Warrant for possession of body; investigation

(2) Where the Chief Coroner has reason to believe that a person died in any of the circumstances mentioned in section 10 and no warrant has been issued to take possession of the body, he may issue the warrant himself or direct any coroner to do so.

Idem

(3) After the issue of the warrant, no other coroner shall issue a warrant or interfere in the case, except the Chief Coroner or except under the instructions of the Minister.

Jurisdiction

(4) Subject to the approval of the Chief Coroner, a coroner may obtain assistance or retain expert services for all or any part of his investigation or inquest.

Expert assistance

(5) A coroner may proceed with an investigation without taking possession of the body where the body has been destroyed in whole or in part or is lying in a place from which it cannot be recovered or has been removed from Ontario. 1972, c. 98, s. 13.

No warrant

16.—(1) A coroner may,

Investigative powers

(a) view or take possession of any dead body, or both; and

(b) enter and inspect any place where a dead body is and any place from which the coroner has reasonable grounds for believing the body was removed. 1972, c. 98, s. 14 (1).

(2) A coroner may, where he believes on reasonable and probable grounds that to do so is necessary for the purposes of the investigation,

Idem

(a) inspect any place in which the deceased person was, or in which the coroner has reasonable grounds to believe the deceased person was, prior to his death;

(b) inspect and extract information from any records or writings relating to the deceased or his circumstances and reproduce such copies therefrom as the coroner believes necessary;

(c) seize anything that the coroner has reasonable grounds to believe is material to the purposes of the investigation. 1972, c. 98, s. 14 (2); 1974, c. 103, s. 6.

Delegation
of powers

(3) A coroner may authorize a legally qualified medical practitioner or a police officer to exercise all or any of his powers under subsection (1).

Idem

(4) A coroner may, where in his opinion it is necessary for the purposes of the investigation, authorize a legally qualified medical practitioner or a police officer to exercise all or any of his powers under clauses (2) (a), (b) and (c) but, where such power is conditional on the belief of the coroner, the requisite belief shall be that of the coroner personally.

Return of
things seized

(5) Where a coroner seizes anything under clause (2) (c), he shall place it in the custody of a police officer for safekeeping and shall return it to the person from whom it was seized as soon as is practicable after the conclusion of the investigation or, where there is an inquest, of the inquest, unless he is authorized or required by law to dispose of it otherwise.

Obstruction
of coroner

(6) No person shall knowingly,

(a) hinder, obstruct or interfere with or attempt to hinder, obstruct or interfere with; or

(b) furnish with false information or refuse or neglect to furnish information to,

a coroner in the performance of his duties or a person authorized by him in connection with an investigation. 1972, c. 98, s. 14 (3-6).

Transfer of
investigation

17.—(1) A coroner may at any time transfer an investigation to another coroner where in his opinion the investigation may be continued or conducted more conveniently by that other coroner or for any other good and sufficient reason.

Investigation
and inquest

(2) The coroner to whom an investigation is transferred shall proceed with the investigation in the same manner as if he had issued the warrant to take possession of the body.

(3) The coroner who transfers an investigation to another coroner shall notify the Chief Coroner of the transfer, and the Chief Coroner shall assist in the transfer upon request. Notification of Chief Coroner

(4) The coroner who transfers an investigation to another coroner shall transmit to him the report of the *post mortem* examination of the body, if any, and his signed statement setting forth briefly the result of his investigation and any evidence to prove the fact of death and the identity of the body. 1978, c. 38, s. 7. Transmitting results of first investigation

18.—(1) Where the coroner determines that an inquest is unnecessary, he shall forthwith transmit to the Chief Coroner, and a copy to the Crown attorney, a signed statement setting forth briefly the result of the investigation, and shall also forthwith transmit to the division registrar a notice of the death in the form prescribed by the *Vital Statistics Act*. 1972, c. 98, s. 16 (1); 1974, c. 103, s. 7. Statement where inquest unnecessary

(2) Every coroner shall keep a record of the cases reported in which an inquest has been determined to be unnecessary, showing for each case the identity of the deceased and the coroner's findings of the facts as to how, when, where and by what means the deceased came by his death, including the relevant findings of the *post mortem* examination and of any other examinations or analyses of the body carried out, and such information shall be available to the spouse, parents, children, brothers and sisters of the deceased and to his personal representative, upon request. 1972, c. 98, s. 16 (2). Record of investigations

19. Where the coroner determines that an inquest is necessary, he shall issue his warrant for an inquest, and shall forthwith transmit to the Chief Coroner, and a copy to the Crown attorney, a signed statement setting forth briefly the result of the investigation and the grounds upon which he determined that an inquest should be held. 1972, c. 98, s. 17. Warrant for inquest

20. When making a determination whether an inquest is necessary or unnecessary, the coroner shall have regard to whether the holding of an inquest would serve the public interest and, without restricting the generality of the foregoing, shall consider, What coroner shall consider and have regard to

(a) whether the matters described in clauses 31 (1) (a) to (e) are known;

(b) the desirability of the public being fully informed of the circumstances of the death through an inquest; and

- (c) the likelihood that the jury on an inquest might make useful recommendations directed to the avoidance of death in similar circumstances. 1978, c. 38, s. 8.

Where body destroyed or removed from Ontario

21. Where a coroner has reason to believe that a death has occurred in circumstances that warrant the holding of an inquest but, owing to the destruction of the body in whole or in part or to the fact that the body is lying in a place from which it cannot be recovered, or that the body has been removed from Ontario, an inquest cannot be held except by virtue of this section, he shall report the facts to the Chief Coroner who may direct an inquest to be held touching the death, in which case an inquest shall be held by the coroner making the report or by such other coroner as the Chief Coroner directs, and the law relating to coroners and coroners' inquests applies with such modifications as are necessary in consequence of the inquest being held otherwise than on or after a view of the body. 1972, c. 98, s. 18.

Minister may direct coroner to hold inquest

22. Where the Minister has reason to believe that a death has occurred in Ontario in circumstances that warrant the holding of an inquest, he may direct any coroner to hold an inquest and the coroner shall hold the inquest into the death in accordance with this Act, whether or not he or any other coroner has viewed the body, made an investigation, held an inquest, determined an inquest was unnecessary or done any other act in connection with the death. 1978, c. 38, s. 9.

Commissioner

23.—(1) The Minister may appoint a commissioner to conduct an inquest in place of a coroner where the Minister considers it advisable.

Powers

(2) A commissioner appointed under subsection (1) has all the powers and duties of the coroner otherwise having jurisdiction for all purposes connected with the inquest and the coroner shall be deemed to be a person with standing at the inquest. 1972, c. 98, s. 20.

Minister may direct that body be disinterred
R.S.O. 1980, c. 59

24. Notwithstanding anything in the *Cemeteries Act*, the Minister may, at any time where he considers it necessary for the purposes of an investigation or an inquest, direct that a body be disinterred under and subject to such conditions as the Minister considers proper. 1978, c. 38, s. 10.

Direction by Chief Coroner

25.—(1) The Chief Coroner may direct any coroner in respect of any death to issue a warrant to take possession of the body, conduct an investigation or hold an inquest, or may direct any other coroner to do so or may intervene to

act as coroner personally for any one or more of such purposes.
1978, c. 38, s. 11.

(2) Where two or more deaths appear to have occurred in the same event or from a common cause, the Chief Coroner may direct that one inquest be held into all of the deaths.
1974, c. 103, s. 8.

Inquest into multiple deaths

26.—(1) Where the coroner determines that an inquest is unnecessary, the spouse, parent, child, brother, sister or personal representative of the deceased person may request the coroner in writing to hold an inquest, and the coroner shall give the person requesting the inquest an opportunity to state his reasons, either personally, by his agent or in writing, and the coroner shall advise the person in writing within sixty days of the receipt of the request of his final decision and where the decision is to not hold an inquest shall deliver his reasons therefor in writing.

Request by relative for inquest

(2) Where the final decision of a coroner under subsection (1) is to not hold an inquest, the person making the request may, within twenty days after the receipt of the decision of the coroner, request the Chief Coroner to review the decision and the Chief Coroner shall review the decision of the coroner after giving the person requesting the inquest an opportunity to state his reasons either personally, by his agent or in writing.

Review of refusal

(3) Subject to section 22, the decision of the Chief Coroner is final. 1974, c. 103, s. 9.

Decision final

27.—(1) Where a person is charged with an offence under the *Criminal Code* (Canada) arising out of a death, an inquest touching the death shall be held only upon the direction of the Minister and, when held, the person charged is not a compellable witness.

Where criminal offence charged
R.S.C. 1970, c. C-34

(2) Where during an inquest a person is charged with an offence under the *Criminal Code* (Canada) arising out of the death, the coroner shall discharge the jury and close the inquest, and shall then proceed as if he had determined that an inquest was unnecessary, but the Minister may direct that the inquest be reopened.

Idem

(3) Notwithstanding subsections (1) and (2), where a person is charged with an offence under the *Criminal Code* (Canada) arising out of the death and the charge or any appeal from a conviction or an acquittal of the offence charged has been finally disposed of or the time for taking an appeal has expired, the coroner may issue his warrant for an inquest

Where charge or appeal finally disposed of

and the person charged is a compellable witness at the inquest. 1978, c. 38, s. 12.

Post mortem
examinations
and
analyses

28.—(1) A coroner may at any time during an investigation or inquest issue his warrant for a *post mortem* examination of the body, an analysis of the blood, urine or contents of the stomach and intestines, or such other examination or analysis as the circumstances warrant. 1972, c. 98, s. 23 (1).

Report

(2) The person who performs the *post mortem* examination shall forthwith report his findings in writing only to the coroner who issued the warrant, the Crown attorney, the regional coroner and the Chief Coroner and the person who performs any other examination or analysis shall forthwith report his findings in writing only to the coroner who issued the warrant, the person who performed the *post mortem* examination, the Crown attorney, the regional coroner and the Chief Coroner. 1978, c. 38, s. 13.

Extraction
and use of
pituitary
gland

29.—(1) Any person performing a *post mortem* examination of a body under the warrant of a coroner may extract the pituitary gland and cause it to be delivered to any person or agency designated by the Chief Coroner for use in the treatment of persons having a growth hormone deficiency.

Objections

(2) This section applies where the coroner or person performing the *post mortem* examination has no reason to believe that the deceased has expressed an objection to his body being so dealt with after his death or that the surviving spouse, parent, child, brother, sister or personal representative objects to the body being so dealt with, and notwithstanding that no consent otherwise required by law is given. 1978, c. 95, s. 1.

Notice to
Crown
attorney

30.—(1) Every coroner before holding an inquest shall notify the Crown attorney of the time and place at which it is to be held and the Crown attorney or a barrister and solicitor or any other person designated by him shall attend the inquest and shall act as counsel to the coroner at the inquest. 1978, c. 38, s. 14.

Counsel for
Minister

(2) The Minister may be represented at an inquest by counsel and shall be deemed to be a person with standing at the inquest for the purpose. 1974, c. 103, s. 11 (2).

Purposes
of inquest

31.—(1) Where an inquest is held, it shall inquire into the circumstances of the death and determine,

(a) who the deceased was;

(b) how the deceased came to his death;

(c) when the deceased came to his death;

(d) where the deceased came to his death; and

(e) by what means the deceased came to his death.
1972, c. 98, s. 25 (1); 1978, c. 38, s. 15 (1).

(2) The jury shall not make any finding of legal responsibility ^{Idem} or express any conclusion of law on any matter referred to in subsection (1). 1972, c. 98, s. 25 (2).

(3) Subject to subsection (2), the jury may make recom- ^{Authority of jury to make recom-} mendations directed to the avoidance of death in similar ^{mendations} circumstances or respecting any other matter arising out of the inquest. 1978, c. 38, s. 15 (2).

(4) A finding that contravenes subsection (2) is improper and ^{Improper finding} shall not be received.

(5) Where a jury fails to deliver a proper finding it shall ^{Failure to make proper finding} be discharged. 1972, c. 98, s. 25 (4, 5).

32. An inquest shall be open to the public except where ^{Inquest public} the coroner is of the opinion that national security might be endangered or where a person is charged with an indictable offence under the *Criminal Code* (Canada) in which cases ^{R.S.C. 1970, c. C-34} the coroner may hold the hearing concerning any such matters *in camera*. 1972, c. 98, s. 26.

33.—(1) Except as provided in subsection (4), every inquest ^{Juries} shall be held with a jury composed of five persons.

(2) The coroner shall direct a constable to select from the list of ^{Jurors} names of persons provided under subsection 34 (2) five persons who in his opinion are suitable to serve as jurors at an inquest and the constable shall summon them to attend the inquest at the time and place appointed.

(3) Where fewer than five of the jurors so summoned ^{Idem} attend at the inquest, the coroner may name and appoint so many persons then present or who can be found as will make up a jury of five.

(4) With the consent of the Chief Coroner, an inquest in a ^{Inquest without jury in provisional judicial district} provisional judicial district may be held without a jury. 1978, c. 38, s. 16.

34.—(1) A coroner may by his warrant require the ^{List of jurors} sheriff of a county or district in which an inquest is to be held to provide a list of the names of such number of

persons as the coroner specifies in the warrant taken from the jury roll prepared under the *Juries Act*.
R.S.O. 1980,
c. 226

Idem

(2) Upon receipt of the warrant, the sheriff shall provide the list containing names of persons in the number specified by the coroner, taken from the jury roll prepared under the *Juries Act*, together with their ages, places of residence and occupations.

Eligibility

(3) No person who is ineligible to serve as a juror under the *Juries Act* shall be summoned to serve or shall serve as a juror at an inquest.

Idem

(4) An officer, employee or inmate of a hospital or an institution referred to in subsection 10 (2) or (3) shall not serve as a juror at an inquest upon the death of a person who died therein.

Excusing
from service

(5) The coroner may excuse any person on the list from being summoned or from serving as a juror on the grounds of illness or hardship.

Exclusion of
juror with
interest

(6) The coroner presiding at an inquest may exclude a person from being sworn as a juror where the coroner believes there is a likelihood that the person, because of interest or bias, would be unable to render a verdict in accordance with the evidence.

Excusing of
juror for
illness

(7) Where in the course of an inquest the coroner is satisfied that a juror should not, because of illness or other reasonable cause, continue to act, the coroner may discharge the juror.

Continuation
with reduced
jury

(8) Where in the course of an inquest a member of the jury dies or becomes incapacitated from any cause or is excluded or discharged by the coroner under subsection (6) or (7) or is found to be ineligible to serve, the jury shall, unless the coroner otherwise directs and if the number of jurors is not reduced below three, be deemed to remain properly constituted for all purposes of the inquest. 1974, c. 103, s. 12, *part*.

Report to
sheriff

35. On or before the 31st day of December in each year, the coroner shall advise the sheriff of the names of persons who have received fees for service as jurors at inquests and the number of each such name on the jury roll. 1974, c. 103, s. 12, *part*.

Omissions to
not vitiate
proceedings

36. The omission to observe any of the provisions of this Act or the regulations respecting the eligibility

and selection of jurors is not a ground for impeaching or quashing a verdict. 1974, c. 103, s. 12, *part*.

37.—(1) The jury shall view the body where the coroner directs them to do so. View of body may be dispensed with

(2) The jurors are entitled to ask relevant questions of each witness. 1972, c. 98, s. 29. Questions by jury

38. A verdict or finding may be returned by a majority of the jurors sworn. 1972, c. 98, s. 30. Majority

39. A summons to a juror or to a witness may be served by personal service or by sending it by registered mail addressed to the usual place of abode of the person summoned. 1972, c. 98, s. 31. Service of summonses

40.—(1) A coroner may require any person by summons, Summonses

(a) to give evidence on oath or affirmation at an inquest; and

(b) to produce in evidence at an inquest documents and things specified by the coroner,

relevant to the subject-matter of the inquest and admissible.

(2) A summons issued under subsection (1) shall be in Form 1 and shall be signed by the coroner. Form and service of summonses

(3) Upon proof to the satisfaction of a judge of the county or district court of the service of a summons under this section upon a person and that, Bench warrants

(a) such person has failed to attend or to remain in attendance at an inquest in accordance with the requirements of the summons; and

(b) his presence is material to the inquest,

the judge may, by his warrant in Form 2, directed to any sheriff, police officer or constable, cause such witness to be apprehended anywhere within Ontario and forthwith to be brought to the inquest and to be detained in custody as the judge may order until his presence as a witness at the inquest is no longer required, or, in the discretion of the judge, to be released on a recognizance (with or without sureties) conditioned for appearance to give evidence.

(4) Service of a summons may be proved by affidavit in an application under subsection (3). Proof of service

Certificate
of facts

(5) Where an application under subsection (3) is made on behalf of a coroner, the coroner may certify to the judge the facts relied on to establish that the presence of the person summoned is material for the purposes of the inquest and such certificate may be accepted by the judge as proof of such facts. 1972, c. 98, s. 32.

Persons
with
standing
at inquest

41.—(1) On the application of any person before or during an inquest, the coroner shall designate him as a person with standing at the inquest if he finds that the person is substantially and directly interested in the inquest.

Rights of
persons with
standing at
inquest

(2) A person designated as a person with standing at an inquest may,

- (a) be represented by counsel or an agent;
- (b) call and examine witnesses and present his arguments and submissions;
- (c) conduct cross-examinations of witnesses at the inquest relevant to the interest of the person with standing and admissible. 1972, c. 98, s. 33.

Protection
for
witnesses

42.—(1) A witness at an inquest shall be deemed to have objected to answer any question asked him upon the ground that his answer may tend to criminate him or may tend to establish his liability to civil proceedings at the instance of the Crown, or of any person, and no answer given by a witness at an inquest shall be used or be receivable in evidence against him in any trial or other proceedings against him thereafter taking place, other than a prosecution for perjury in giving such evidence. 1972, c. 98, s. 34 (1).

Right to
object under
R.S.C. 1970,
c. E-10

(2) Where it appears at any stage of the inquest that the evidence that a witness is about to give would tend to criminate him, it is the duty of the coroner and of the Crown attorney to ensure that the witness is informed of his rights under section 5 of the *Canada Evidence Act*. 1972, c. 98, s. 34 (2); 1974, c. 103, s. 13.

Rights of
witnesses
to counsel

43.—(1) A witness at an inquest is entitled to be advised by his counsel or agent as to his rights but such counsel or agent may take no other part in the inquest without leave of the coroner.

Idem

(2) Where an inquest is *in camera*, a counsel or agent for a witness is not entitled to be present except when that witness is giving evidence. 1972, c. 98, s. 35.

44.—(1) Subject to subsections (2) and (3), a coroner may admit as evidence at an inquest, whether or not admissible as evidence in a court, What is admissible in evidence at inquest

(a) any oral testimony; and

(b) any document or other thing,

relevant to the purposes of the inquest and may act on such evidence, but the coroner may exclude anything unduly repetitious or anything that he considers does not meet such standards of proof as are commonly relied on by reasonably prudent men in the conduct of their own affairs and the coroner may comment on the weight that ought to be given to any particular evidence.

(2) Nothing is admissible in evidence at an inquest, What is inadmissible in evidence at inquest

(a) that would be inadmissible in a court by reason of any privilege under the law of evidence; or

(b) that is inadmissible by the statute under which the proceedings arise or any other statute.

(3) Nothing in subsection (1) overrides the provisions of any Act expressly limiting the extent to or purposes for which any oral testimony, documents or things may be admitted or used in evidence. Conflicts

(4) Where the coroner is satisfied as to their authenticity, a copy of a document or other thing may be admitted as evidence at an inquest. Copies

(5) Where a document has been filed in evidence at an inquest, the coroner may, or the person producing it or entitled to it may with the leave of the coroner, cause the document to be photocopied and the coroner may authorize the photocopy to be filed in evidence in the place of the document filed and release the document filed, or may furnish to the person producing it or the person entitled to it a photocopy of the document filed certified by the coroner. 1972, c. 98, s. 36. Photocopies

45.—(1) The evidence upon an inquest or any part of it shall be recorded by a person appointed by the coroner and approved by the Crown attorney and who before acting shall make oath or affirmation that he will truly and faithfully record the evidence. Taking evidence

(2) It is not necessary to transcribe the evidence unless the Minister, Chief Coroner or Crown attorney orders it to Transcription of evidence

be done or unless any other person requests a copy of the transcript and pays the fees therefor, except that the coroner may prohibit the transcribing of all or any part of evidence taken *in camera*. 1972, c. 98, s. 37.

Adjourn-
ments

46. An inquest may be adjourned from time to time by the coroner of his own motion or where it is shown to the satisfaction of the coroner that the adjournment is required to permit an adequate hearing to be held. 1972, c. 98, s. 38.

Maintenance
of order at
inquest

47. A coroner may make such orders or give such directions at an inquest as he considers necessary for the maintenance of order at the inquest, and, if any person disobeys or fails to comply with any such order or direction, the coroner may call for the assistance of any peace officer to enforce the order or direction, and every peace officer so called upon shall take such action as is necessary to enforce the order or direction and may use such force as is reasonably required for that purpose. 1972, c. 98, s. 39.

Interpreters

48.—(1) A coroner may, and if required by the Crown attorney or requested by the witness shall, employ a person to act as interpreter for a witness at an inquest, and such person may be summoned to attend the inquest and before acting shall make oath or affirm that he will truly and faithfully translate the evidence. 1972, c. 98, s. 40 (1).

Constables
at inquest

(2) A coroner may appoint such persons as constables as he considers necessary for the purpose of assisting him in an inquest and, on the request of the coroner, the police force having jurisdiction in the locality in which an inquest is held shall provide a police officer for the purpose and, before acting, every such constable shall take oath or affirm that he will faithfully perform his duties. 1974, c. 103, s. 14.

Administra-
tion of oaths

49. The coroner conducting an inquest has power to administer oaths and affirmations for the purpose of the inquest. 1972, c. 98, s. 41.

Abuse of
processes

50.—(1) A coroner may make such orders or give such directions at an inquest as he considers proper to prevent abuse of its processes.

Limitation
on cross-
examination

(2) A coroner may reasonably limit further cross-examination of a witness where he is satisfied that the cross-examination of the witness has been sufficient to disclose fully and fairly the facts in relation to which he has given evidence.

Exclusion
of agents

(3) A coroner may exclude from a hearing anyone, other than a barrister and solicitor qualified to practise in Ontario,

appearing as an agent advising a witness if he finds that such person is not competent properly to advise the witness or does not understand and comply at the inquest with the duties and responsibilities of an adviser. 1972, c. 98, s. 42.

51. Where any person without lawful excuse,

Contempt
proceedings

- (a) on being duly summoned as a witness or a juror at an inquest makes default in attending at the inquest; or
- (b) being in attendance as a witness at an inquest, refuses to take an oath or to make an affirmation legally required by the coroner to be taken or made, or to produce any document or thing in his power or control legally required by the coroner to be produced by him or to answer any question to which the coroner may legally require an answer; or
- (c) does any other thing that would, if the inquest had been a court of law having power to commit for contempt, have been contempt of that court,

the coroner may state a case to the Divisional Court setting out the facts and that court may, on application on behalf of and in the name of the coroner, inquire into the matter and, after hearing any witnesses who may be produced against or on behalf of that person and after hearing any statement that may be offered in defence, punish or take steps for the punishment of that person in like manner as if he had been guilty of contempt of the court. 1972, c. 98, s. 43.

52.—(1) The coroner shall forthwith after an inquest return the verdict or finding, with the evidence where the Minister, Crown attorney or Chief Coroner has ordered it to be transcribed, to the Chief Coroner, and shall transmit a copy of the verdict and recommendations to the Crown attorney. 1972, c. 98, s. 44.

Return of
verdict

(2) After an inquest is concluded, the coroner shall, upon request, release documents and things put in evidence at the inquest to the lawful owner or person entitled to possession thereof. 1974, c. 103, s. 15.

Release of
exhibits

53. No action or other proceeding for damages lies or shall be instituted against a coroner or any person acting under his authority for an act done by him in good faith in the performance or intended performance of any power or duty under this Act or the regulations, or for any neglect or default in the performance in good faith of any such power or duty. 1978, c. 38, s. 17.

Protection
from
liability

Seals not
necessary

54. In proceedings under this Act, it is not necessary for a person to affix a seal to a document, and no document is invalidated by reason of the lack of a seal, even though the document purports to be sealed. 1972, c. 98, s. 45.

Penalty

55. Any person who contravenes section 10, 11, 13 or subsection 16 (6) is guilty of an offence and on conviction is liable to a fine of not more than \$1,000 or to imprisonment for a term of not more than six months, or to both. 1972, c. 98, s. 46.

Regulations

56. The Lieutenant Governor in Council may make regulations,

- (a) prescribing powers and duties of the Chief Coroner;
- (b) prescribing fees and allowances for coroners for services performed under this or any other Act and providing for the adjustment of such fees and allowances in special circumstances;
- (c) prescribing fees and allowances that shall be paid to persons rendering services in connection with coroners' investigations and inquests and providing for the adjustment of such fees in special circumstances;
- (d) providing for the selecting, recording, summoning, attendance and service of persons as jurors at inquests;
- (e) prescribing the contents of oaths and affirmations required or authorized by this Act;
- (f) prescribing matters that may be grounds for disqualification because of interest or bias of jurors for the purposes of subsection 34 (6).
- (g) prescribing forms and providing for their use;
- (h) prescribing additional rules of procedure for inquests. 1972, c. 98, s. 47; 1974, c. 103, s. 16.

FORM 1

*Coroners Act**(Section 40 (2))*

SUMMONS TO A WITNESS BEFORE AN INQUEST

RE: _____, deceased

TO:

You are hereby summoned and required to attend before an inquest
to be held

at.....in the.....of.....

on.....day, the.....day of.....

19....., at the hour of.....o'clock in the.....noon (local
time), and so from day to day until the inquest is concluded or the coroner
otherwise orders, to give evidence on oath touching the matters in
question in the proceedings and to bring with you and produce at such time

and place.....

.....

.....

Dated this.....day of....., 19.....

.....
Coroner

NOTE:

If you fail to attend and give evidence at the inquest, or to produce the
documents or things specified, at the time and place specified, without
lawful excuse, you are liable to punishment by a judge of the county or
district court in the same manner as if for contempt of that court for
disobedience to a subpoena.

1972, c. 98, Form 1.

FORM 2

*Coroners Act**(Section 40 (3))*

BENCH WARRANT

PROVINCE OF ONTARIO

TO: A.B., Sheriff, etc.

WHEREAS proof has been made before me that C.D. was duly summoned
to appear before an inquest into the death of.....

deceased, at Toronto (*or as the case may be*) on the.....

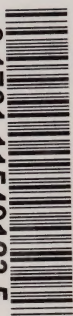
day of....., 19.....; that the presence of the said C.D. is
material to the inquest, and that the said C.D. has failed to attend in
accordance with the requirements of the summons.

THESE are therefore to command you to take the said C.D. to bring and have him before the said inquest at Toronto (*or as the case may be*) there to testify what he may know concerning the matters in question in the said inquest, and that you detain him in your custody until he has given his evidence or until the said inquest has ended or until other orders may be made concerning him.

GIVEN UNDER MY HAND this.....day of.....,
19...., at.....

.....
Judge of the County (District) Court
of the County (District) of

1972, c. 98, Form 2.



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